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COMMISSION ON HUMAN RIGHTS

Fifty-seventh session

SUMMARY RECORD OF THE 38th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 4 April 2001, at 9 p.m.

Chairperson:	Mr. DESPOUY	(Argentina)
later:	Mr. MENDONÇA E MOURA (Vice-Chairperson)	(Portugal)

CONTENTS

CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF:

(a) TORTURE AND DETENTION

(b) DISAPPEARANCES AND SUMMARY EXECUTIONS

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CONTENTS (continued)

(c) FREEDOM OF EXPRESSION

(d) INDEPENDENCE OF THE JUDICIARY, ADMINISTRATION OF JUSTICE, IMPUNITY

(e) RELIGIOUS INTOLERANCE

(f) STATES OF EMERGENCY

(g) CONSCIENTIOUS OBJECTION TO MILITARY SERVICE (continued)

The meeting was called to order at 9.10 p.m.

CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF:

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(agenda item 11) (continued) (E/CN.4/2001/4, 9 and Add.1 and 2, 10, 11, 14 and Add.1, 58, 59 and Corr.1 and Add.1, 60, 61, 63, 64 and Add.1, 65 and Add.1-3, 66 and Add.1, 67, 68, 69 and Add.1, 116, 137 and Corr.1, 138 and 149; E/CN.4/2001/NGO/2, 16, 23, 31, 47, 49, 50, 52, 64-71, 76, 90-94, 98, 99, 101, 110, 115, 116, 132-135, 137 and Corr.1, 138-145, 150, 159, 167, 168, 181 and 182; A/55/178 and 280 and Add.1 and 2; A/RES/55/89)

1. Mr. LITTMAN (Association for World Education) said that he wished to raise once again the case of Dr. Malek, a Coptic doctor who had been sentenced to 25 years' imprisonment by a military court in Egypt. His organization's written statement (E/CN.4/2001/NGO/49) cited Opinion No. 10/1999 of the Working Group on Arbitrary Detention, which expressed the view that the doctor's deprivation of liberty was "arbitrary". He appealed for support for those thousands of people who would continue to petition the Egyptian President for the release of the condemned man in time for the Coptic Easter, and furthermore wished to remind the Commission of the constant discrimination in the Egyptian context against the Copts and their defenders. The Egyptian Government's reaction to a condemnation by the Cairo-based Centre for Development Studies of the brutal killing of 21 Copts at Al-Khosheh in January 2000 had been to close down the Centre and to arrest its director, who was in fact a Muslim, and 27 of his colleagues. They were currently being tried on trumped-up charges. There had been a similar case of intimidation against another Muslim Egyptian human rights defender, who had prepared a report on the torture in 1998 of over 1,000 innocent Copts from the same village.

2. Regarding the document entitled "The ancient Jewish community of Iran and the Shiraz 'show trial'", (E/CN.4/2001/NGO/50) his organization had appealed to the High Commissioner for Human Rights to inquire whether it was true that in the Shiraz trial any testimony from a Jew with regard to a Muslim was considered invalid by the court in accordance with traditional Islamic law. He had recently been informed by the High Commissioner that she had raised that question at the highest level but had received only an inadequate reply. He accordingly called on

the representative of the Islamic Republic of Iran to inform the Commission whether the testimony of a non-Muslim in regard to a Muslim had any validity during a trial in an Islamic court.

3. Mr. SAHRAOUI (Algeria), speaking on a point of order, said that he had timed the preceding statement as having lasted over nine minutes. The seven-minute rule should be respected.

4. Ms. IZE-CHARRIN (Secretary of the Commission) said it had been suggested that the principle of automatically granting seven minutes to speakers was not the best way of conducting the discussion and that an initial five minutes should be given, followed by two more minutes at the discretion of the Chairperson. She had decided to follow that suggestion. Without using a stopwatch, however, timing was not easy and it would clearly be unfair to cut a speaker off prematurely. It was her desire to satisfy all reasonable requests, and she would act in accordance with any decision taken by the Commission.

5. Mr. AL-HUSSAMI (Syrian Arab Republic) said that the problem was not so much how a speaker's time was to be calculated but rather that the present situation seemed to be one more example of the secretariat deciding in favour of a particular NGO. It was a fact that several NGOs were represented by a single person, namely Mr. Littman, who seemed to be constantly in conversation with members of the Commission secretariat. There should be a code of conduct for NGOs, particularly those represented by persons who made biased attacks on States and seemed incapable of seeing problems as a whole.

6. Mr. Mendonça e Moura (Portugal), Vice-Chairperson, took the Chair.

7. Mr. LITTMAN (World Union for Progressive Judaism) said that a recent book, The Forgotten Millions. The Modern Jewish Exodus from Arab Lands, edited by Malka Shulewitz, drew attention to the story of some millions of people for whom almost half the Jewish population of the State of Israel derived. In 1948, after the proclamation of the independence of Israel, there had been a massive expulsion of Jews - and of Christians - from Arab countries, whereby they had been forced to abandon their homes and possessions. Contrary to the case of the Arab refugees from Palestine, no international aid was received by the Jewish refugees. It had been pointed out that the statement in Security Council resolution 242 that a just and lasting solution of the Israeli-Arab conflict should include "a just settlement of the refugee problem" applied equally to the claims of Jews from Arab countries. The arbitrary carving-up of the territory east of the Jordan by the United Kingdom after the First World War had resulted in a confused situation. Deportations and expropriations of Jews and Christians had in fact been a recurrent phenomenon in the Islamic East, and it was a distortion of history to refer again and again to Palestinian Arab refugees but never to mention the Jewish refugees from the Arab world.

8. In conclusion, he wished to draw attention to an article relating to the infamous 1840 blood libel which had appeared in the Egyptian Government newspaper Al-Ahram on the eve of the Amman Arab summit. The article was in clear violation of Commission on Human Rights resolution 2000/84 on the defamation of religions, and called for a response by the Commission.

9. Ms. BAKHTIAR (Association of World Citizens) said that her organization's written statement (E/CN.4/2001/NGO/47) had called on the Chinese authorities to modify a number of legal and administrative practices in contradiction with internationally recognized human rights norms. The first case concerned the persistent use of administrative detention, which was a denial of the right to a fair trial, and the relegation of people to "re-education through labour camps" without stated reason, without any indication of the duration of detention and, in many cases, without family members being informed of the place of their detention. The second case related to the arrest of Falun Gong practitioners and their subjection to torture. Women practitioners were often subjected to violence, rape and degrading punishment, reflecting the widespread contempt for women in Chinese society. She could only hope that such legal practices in China would be reformed in a spirit of justice and compassion.

10. Mr. MONOD (War Resisters International) said that, further to the condemnation in its 1998 survey of the sufferings imposed on those refusing to participate in war, his organization, in line with the Commission's request to the High Commissioner for Human Rights to prepare a compilation and analysis of best practices in that field, wished to quote examples of such practices revealed by its survey. In a recommendation of 18 January 1994 the European Parliament had recognized the right to conscientious objection and made provision for the establishment of alternative civilian service. That recommendation had been largely followed by both member and non-member States, and by a number of States that had applied for accession to the European Union. In South America, Argentina made provision under its 1995 conscription law for such alternative service. In Paraguay, although provision had been made for recognizing the right to conscientious objection, there was still no implementing law. In Uzbekistan the civilian service provided for, was available only to members of religious groups, and included some military training. In Chad a 1989 governmental declaration stated that those opposed to the use of weapons might fulfil their obligations either in a non-combatant unit or in a civilian organization. In Moldova alternative service was provided for but, regrettably, for twice the length of time required for military service. Complete renunciation of army service had been decided on by Costa Rica in 1949, Panama in 1989 and Haiti in 1994 - a most welcome development. It was to be hoped that other countries maintaining professional armies would at least recognize the right of conscientious objection.

11. Mr. GORDON-LENEE (Reporters sans Frontières) said that there had been a notable decline in the repression of journalists throughout the world. The number of journalists imprisoned was the lowest for some years, and the number of countries with complete denial of press freedom had been steadily decreasing. In a score of countries, however, journalists continued to be imprisoned, tortured or even executed merely because their reports and inquiries were unwelcome to the authorities. In Burkina Faso the investigation into the death of journalist Norbert Zongo had made slow progress, and it had taken over two years for charges to be brought against Warrant Officer Marcel Kafando, a member of the Presidential Security Regiment, who was, in any case, unlikely to have acted without orders from above. Similarly, in Ukraine the inquiry into the murder of Georgiy Gongadze, the editor of a newspaper highly critical of the Government, had been seriously defective. Preservation of his body had been extremely negligent and the rights of his family to access to it had been flouted. The primary concern of the investigators seemed to be to protect the executive from serious accusations.

12. In spite of the improvements noted, no fewer than 26 journalists had been killed throughout the world during the year 2000; 329 had been illegally detained; and more than 510 reporters had been attacked and threatened. In Tunisia, for example, unknown persons had shot and seriously wounded the former editor of Le Monde Diplomatique following the publication of an article charging the head of State with involvement in the Taoufik Ben Brik affair. In Cuba there had been 70 cases of obstruction of freedom of information, including seizure of equipment, pressure upon families and the like. In the face of increasing Government repression, 18 independent journalists had been obliged to leave the island. Imprisonment had also been used in Burma and China as a means of repression against independent journalists, and similar measures had been taken against journalists in Ethiopia and in Iran, particularly in recent months.

13. Mr. FAYEK (Arab Organization for Human Rights) said that his organization welcomed the adhesion of an increasing number of Arab countries to human rights conventions and the Statute of the International Criminal Court. Important reforms had also been introduced in Bahrain, through the adoption of a national charter, and in Egypt, where provision had been made for judicial supervision of elections. The abrogation of the law on State security in Bahrain and the banning of flogging from Egyptian prisons were also positive developments, as were governmental efforts to promote the political participation of women.

14. On the negative side, the persistence of conflict posed a serious challenge to the realization of human rights, as exemplified by the cases of Somalia and southern Sudan. In Algeria, there had been a violent recrudescence of terrorism. The most serious violation of human rights in some Arab countries was the continued practice of torture, which was suspected to have led to the death of some detainees in Tunisia and Sudan. The banning of some political parties in Egypt and Mauritania and impediments to the registration of parties in Algeria persisted, as did restrictions upon the activities of human rights organizations in Tunisia.

15. The main concern of his organization, however, was the deterioration in the human rights situation of the Palestinian people and the continuing imposition of sanctions on Iraq after more than 10 years. The unilateral war conducted by the Israeli authorities with increasing violence aimed to discourage the Palestinian people from pursuing their rights and force upon them a system reminiscent of the "Bantustans" that had eventually been dismantled in South Africa by the international community. He called upon the Commission to ensure that steps were taken to halt all armed attacks on the Palestinian people and to lift the siege imposed on them, to provide international protection and to support legitimacy as a basis for a peaceful solution following United Nations resolutions. The continuing sanctions imposed on Iraq were having disastrous effects on its population, those most seriously affected being women, children and the elderly. It was highly regrettable that the United States not only disregarded the tragic consequences of its embargo but had bombarded civilian centres.

16. Mr. SÁNCHEZ (American Association of Jurists) said that the recent decision of the Mexican judge Luna Altamirano in favour of the extradition to Spain of an Argentinian citizen accused of human rights violations in his country of origin during the military dictatorship had set an important precedent in the field of universal jurisdiction. The ruling by the Inter-American Court of Human Rights of 14 March had established the important principle that the amnesty laws preventing relatives of victims of the 1991 Barrios Altos massacre, as well as

the surviving victims themselves, from obtaining a hearing before a judge were in violation of the right to judicial protection established by article 25 of the American Convention on Human Rights. The President of the Court had stated his personal view that the ruling would, by setting aside legislation favouring those responsible for serious human rights violations, be a blow struck against impunity.

17. The Association believed that the concepts of universal jurisdiction and the reduction of impunity should extend to all forms of human rights violations and be the inspiring principle of the work of the Commission, its rapporteurs and working groups. It had to be said that existing international tribunals did not always meet those criteria. The posturing before the media and dancing to the tune of the great Powers on the part of the Prosecutor of the International Criminal Tribunal for the Former Yugoslavia and her blatantly biased decision of June 2000 not to investigate NATO war crimes were, as argued in detail by the Association in document E/CN.4/Sub.2/2000/NGO/18, particularly deplorable. The Association also hoped that the Government of Brazil would recognize the distress caused to relatives by ignorance of the fate of disappeared persons and, in accordance with decision 1152 of the Inter-American Commission on Human Rights, provide information on the many persons who had disappeared in the 1970s.

18. The Association called for the Commission to take a firm stand on particularly serious human right violations such as those currently rife in Afghanistan, Colombia and the Islamic Republic of Iran, and on those now being perpetrated by the Israeli Government against the Palestinian people.

19. Ms. FEWZIA (International PEN) said that her organization particularly welcomed the report by the Special Rapporteur on the right to freedom of opinion and expression to the preceding session of the Commission, and shared his concern about the prosecution and imprisonment of writers and journalists. The use of criminal defamation laws to suppress legitimate comments and criticism of those in power gave cause for serious concern. While individuals should certainly be able to seek redress from the courts for harm suffered by false and malicious reports, civil, not criminal, legislation was the most appropriate means of addressing that issue. Her organization had noted a number of prosecutions under criminal defamation laws in 18 African, Asian, Latin American and European countries over the past year, including action taken against journalists for "defamation" of President Dos Santos of Angola, against Turkish writers and journalists for "insulting" the armed forces, and against a Sri Lankan journalist for corruption allegations associated with President Kamaratunga; and the detention of two journalists on charges of defaming government officials, including President Castro, in Cuba. There were many other countries where criminal defamation laws existed but had not led to detentions over the past years, and her organization appealed to Governments in all such countries to review their legislation and replace criminal by civil laws.

20. Ms. WESCHLER (Human Rights Watch) said that, in spite of strong condemnation of paramilitaries by President Pastrana and army leaders, paramilitaries, often tolerated or supported by the army, had been responsible for nearly 80 per cent of human rights violations in Colombia over the preceding year. Even when precise information about their activities, including the identity of a number of individuals, had been made available to the army, no action had been taken, and high-ranking officers credibly suspected of links with paramilitary groups had been promoted. In the first 17 days of 2001, the Government had recorded 23 massacres, the

worst being in Chengue, Sucre, where some 50 paramilitaries had dragged people from their homes and battered them to death. According to reliable accounts, the army had effectively sealed off the area during the killing. Guerrilla activity by the Revolutionary Armed Forces of Colombia and the Camilist Union-National Liberation Army had been responsible for serious human rights violations.

21. Her organization urged the Commission to take strong action on Indonesia, particularly with regard to the continuing military impunity. In spite of the important steps taken by the democratically elected Government, the courts were slow to act, and hardliners in the army and the Government continued to impede efforts to exact justice for past atrocities. In Aceh and Irian Jaya human rights defenders and political activists continued to come under attack, a recent example being the killing of three of them in South Aceh, and three aid workers providing care for torture victims had been shot in December 2000, the evidence pointing to military involvement. Thanks to the efforts of reformers, some new legislation, including provision for human rights courts, had, however, been enacted: investigation into a key case of torture and death in custody had been initiated; and ad hoc courts had been established to prosecute those responsible for human rights violations in East Timor in 1999 and Tanjung Priok in 1984.

22. Ms. MARSAC (Amnesty International) said that, notwithstanding the assurance of its commitment to protect human rights given to the Commission by Saudi Arabia, and the accession of that country to the Convention on the Elimination of All Forms of Discrimination against Women, and other positive measures taken, there had been no apparent impact on the prevalence of grave human rights violations, which continued to be ignored by the international community. The criminal justice system in Saudi Arabia denied defendants basic guarantees of a fair trial, relied heavily on confessions obtained under torture, and countenanced amputations and floggings as punishment. Her organization called on the Government of Saudi Arabia, which had now become a member of the Commission, to comply with its obligations under the Convention against Torture, abolish the punishments referred to and invite the Special Rapporteur on torture to visit the country. In Indonesia extrajudicial executions, "disappearances" and torture were regularly reported, especially in Aceh and Papua. Investigations into some human rights violations had been conducted, but prosecutions remained extremely rare. No one had been brought to justice for the crimes committed in East Timor in 1999. Legal reform had slowed down and safeguards were often ignored. The recommendations by the Working Group on Arbitrary Detention still awaited implementation, and the Commission should urge the Government to take action.

23. Her organization attached great importance to the addition of a strong protocol to the Convention against Torture, which should include making provision for an international committee of experts to visit places of detention. The Sub-Commission must have a standing invitation to visit the territory of any State party to the protocol, unlimited access to all places of detention and the right to interview detainees in private, the right to make a public statement in the case of refusal of cooperation, the exclusion of reservations, and prevention of the use of national legislation to restrict the Sub-Commission's work.

24. Mr. THOMPSON (Association for the Prevention of Torture) urged the Commission to renew the mandate of the Special Rapporteur on torture for a further three years without change because of its important function as an international preventive mechanism. His organization

welcomed the decision by a number of States to issue standing invitations to the Commission's thematic procedures, which included visits by the Special Rapporteur. The 1993 Vienna Declaration and Programme of Action had emphasized the primary importance of prevention and called for the early adoption of the draft optional protocol, which aimed at creating an international mechanism with the right to visit any place of detention. His Association had, since its establishment some 20 years previously, urged the constitution of such a body. The Chairperson of the Working Group should be mandated to conduct inter-sessional consultations with a view to arriving at a consolidated draft text for adoption by consensus at the following meeting of the Group.

25. Mr. SOTTAS (World Organization against Torture) said that the adoption of a protocol to the Convention against Torture was more necessary than ever because of the continuing widespread use of torture and cruel, inhuman or degrading punishment. The system proposed had proved its efficacy in Europe, where all the States parties to the European Convention for the Prevention of Torture were regularly visited by independent international experts, often resulting in the termination of inhuman practices. His organization together with associated NGOs urged the acceptance of such a mechanism as quickly as possible. He was, however, convinced that it would not achieve its objectives unless provision was made for unconditional access by independent external experts to all detention centres at any time.

26. His organization was gratified to note the measures taken in recent months to remedy the grave violations of human rights in Bahrain, to which it had drawn attention during previous sessions of the Commission. The return of numerous exiles was proof of the genuine changes that had taken place, and he urged the authorities to intensify their cooperation with international mechanisms, in particular the Working Group on Arbitrary Detention. The publicity given in other Arab countries to positive changes in Bahrain had made the human rights situation in some even more intolerable. He had already referred to the Algerian situation under agenda item 9, but the situation in Libya continued to cause grave concern. His organization wished to point out to certain western States, which believed that Libya was now a country to which asylum-seekers could be safely returned, that the guarantees offered by the Libyan authorities had proved false. With regard to Tunisia, both national and major international NGOs had emphasized that opposition to Islamic fundamentalism could not justify torture. In the absence of an international criminal court, his organization had been obliged to resort to the systems of universal jurisdiction provided for by the Convention against Torture, to which Tunisia was a party, in order to obtain justice on behalf of victims in exile.

27. Attempts to open a dialogue with the Chinese authorities had thus far proved relatively fruitless, and his organization continued to receive numerous allegations of torture used against members of trade unions not recognized by the authorities, against members of ethnic minorities, especially Tibetans, and against human rights activists and members of the Falun Gong movement. Furthermore, China had still not ratified the International Covenant on Civil and Political Rights, in spite of the numerous high-level seminars held in Beijing as well as in European capitals. Although the authorities had agreed to a long-awaited visit by the Special Rapporteur on the question of torture, they had insisted upon imposing their own conditions in place of the terms of reference defined by the international community. He hoped that, in future, any country agreeing to the visit of an international mechanism would unreservedly accept the internationally defined terms of reference.

28. Mr. SHERIF (World Islamic Call Society) said that there was no basis in the Koran, a liberal and tolerant sacred text, for the "Islamophobia" complained of by several speakers in the general discussion. If there were such a phobia, it would be the result of certain overzealous and misguided efforts of Islamic religious leaders and politicians, including opposition to the establishment in largely Muslim countries of places of worship for other religions, and the barbarous desecration of statues of the Buddha in Afghanistan.

29. His organization was disappointed with the persistent refusal of those drafting resolutions on religious intolerance to include a clause affirming the right of the child to education in the religion of his parents or legal guardians. Since all religions stressed the need for benevolence towards fellow beings, it followed that such education could promote understanding and respect in matters of religion and belief, provided that teachers of religion were properly motivated. The fear in some quarters that the inclusion of such a clause might be interpreted as requiring provision of religious education in public schools was totally unwarranted. The right to which he had referred was regrettably omitted from operative paragraph 4 of Commission resolution 2000/33, which also failed to draw attention to the right of religious communities to establish and maintain communication with individuals and communities in matters of religion and belief at the national and international levels, as mentioned in article 6 (i) of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, and more fully expressed in article 2.5 of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, which specifically referred to contacts across frontiers. It was a regrettable fact that some States denied that right to minorities and religious groups, thereby isolating them from the international organizational mainstream of their respective religions.

30. Having forthrightly condemned the desecration of Buddha images in Afghanistan, he wished also to express the hope that adequate international assistance would be extended to the more than 100,000 persons dying of cold and starvation in the Herat region of that country.

31. Ms. GRAF (International League for the Rights and Liberation of Peoples) said that her organization regarded impunity as one of the major obstacles to the full protection of human rights. It was incompatible with the international obligations of States, a violation of the duty to provide guarantees, and particularly of the obligation to bring those responsible to justice and impose penalties proportionate to the gravity of the offences. Impunity also had social and political dimensions since it meant that one segment of society placed itself above the law. It undermined democracy and threatened those struggling for their rights against official repression.

32. One of the most frequent devices used by Governments to achieve impunity was the establishment of military courts to try members of the armed forces and the police responsible for human rights violations, a practice repeatedly condemned by the Human Rights Committee and a number of the commissions and special rapporteurs. Another device was the declaring of amnesties as the price for a return to "institutional normality" or to put an end to armed conflict. Such amnesties were incompatible with the International Covenant on Civil and Political Rights, as had been pointed out by the Human Rights Committee in its comments on article 7 of the Covenant and those addressed to Argentina, Chile, France, El Salvador, Haiti, Lebanon, Peru and Uruguay, which had declared such amnesties. The Vienna Conference had urged the abolition of

legislation of that kind, and her organization welcomed the important ruling by Judge Cavallo declaring Argentina's amnesty laws as unconstitutional. Impunity relating to economic, social and cultural rights was even more alarming.

33. Neo-liberalism, the impact of foreign debt and structural readjustment policies were a frequent source of violations of economic, social and cultural rights, often in the guise of "programmatic rights" or "progressive development". Her organization urged the Commission to pursue discussion of the draft set of principles for the protection and promotion of human rights by opposition to impunity prepared by the Sub-Commission on the Promotion and Protection of Human Rights and to grapple with the problem of impunity for violations of economic, social and cultural rights.

34. Mr. SIMÕES (International Federation of ACAT (Action by Christians for the Abolition of Torture)) said that, in spite of high-sounding statements on human rights by the Brazilian Government, its record was far from satisfactory, especially regarding the use of torture in the police and prisons systems. That was well illustrated by the situation in São Paulo, with its 37 million inhabitants, as revealed to the world by the Special Rapporteur on torture after his visit in August 2000. Between January 1996 and March 2001 the police ombudsman of São Paulo had received 873 denunciations of torture by civil or military police officers but only one case had been brought before the courts during that period. He also reported the use of torture to maintain discipline in youth centres, ironically called "foundations for the well-being of minors". The world-wide television coverage of prison riots in some 30 detention centres of São Paulo organized by criminal gangs had exposed the moral bankruptcy of the system, since the success of the gangs was due to the "protection" they offered detainees, totally deprived of legal assistance, health care and opportunities for work and education, which should have been guaranteed by the State as fundamental rights. He urged the Commission to make every effort to ensure that the Brazilian authorities took effective action against the practice of torture, and put an end to the impunity which encouraged its perpetuation.

35. Mr. MODVIG (International Rehabilitation Council for Torture Victims) said that health professionals supporting torture victims had continued to be exposed to harassment, and in some cases torture and execution, and his organization welcomed the appointment of the Special Representative of the Secretary-General on human rights defenders. Although States parties to the Convention against Torture recognized their obligation to prevent torture and to provide as full rehabilitation as possible for its victims, available funds continued to fall far short of existing needs. His organization, which in the past year had conducted urgent action missions in Sudan, Indonesia, Turkey and Zimbabwe, wished to encourage Governments to increase contributions to the United Nations Voluntary Fund, and welcomed the first contributions made by the Islamic Republic of Iran and Poland.

36. His organization was also becoming increasingly involved in the provision of technical assistance to Governments, and was currently discussing such projects with the Governments of Mexico and Chile. It agreed with the High Commissioner's view that accountability was crucial to prevention and recognized the central importance of the commitment of Governments to respond to allegations of human rights violations and to implement recommendations made by United Nations and other internally recognized bodies. He congratulated Member States on their endeavours to finalize the draft optional protocol, and supported the inclusion of both national

and international mechanisms provided that the mandate of the latter was maintained. His organization's experience in Kosovo and East Timor highlighted the need to establish a strong institutional framework to meet the social and psychological needs of affected populations in both conflict and post-conflict situations. NGOs would continue to play a crucial role in monitoring Governments' compliance with their international human rights obligations, and assisting them when they failed to comply.

37. In conclusion, he wished to state his organization's grave concern about attempts on the part of some Member States to weaken the mandate of the Special Rapporteur on torture. He urged the Commission to give firm support to the existing mandate, which was essential to effective operation of the monitoring and reporting process.

38. Ms. BAUER (Article 19 - Global Campaign for Free Expression), welcoming the report of the Special Rapporteur on the right to freedom of opinion and expression (E/CN.4/2001/64), said that in many countries harsh defamation laws restricted the free flow of information and prevented criticism of public officials. The minimum standards with which civil defamation laws should comply included repeal of any provisions which prevented criticism of Government and public authorities, without protecting reputations; recognition of the importance of open debate and the principle that public figures were required to tolerate a higher degree of criticism than ordinary citizens; the burden of proving the falsity of statements relating to matters of public concern should be borne by the plaintiffs; it should be an admissible defence to show that the publication was reasonable in all circumstances, recognizing that journalists sometimes made mistakes under pressure of time; no one should be liable for the expression of an opinion; and sanctions should not be so heavy as to exert a chilling effect on freedom of expression.

39. In many countries publicly funded broadcasters were in effect Government mouthpieces, and it should be recognized that the prevalence of serious political interference in broadcasting hindered the free flow of information and undermined the public's right to know. The prohibition of private broadcasting in some countries was in clear breach of guarantees of freedom of expression, and in other countries the regulation of private broadcasting by Governments or by bodies under effective government control could lead to unfair licensing and regulation. Her organization called on the Special Rapporteur to look into the question of political interference with broadcasting.

40. Mr. LIYANAGE (Asian Legal Resource Centre) said that the 1994 Convention against Torture Act, which made torture a specific crime and a punishable offence in Sri Lanka, was rendered ineffective by the fact that the prosecutor, a member of the Attorney-General's department, would act only if criminal investigations were conducted by the police and a dossier was submitted to the department. In the case of offences, including torture, alleged to have been committed by law enforcement officers, there was rarely a criminal investigation. Reform of the prosecution system was therefore a precondition for finding an effective remedy, as required by article 2 of the International Covenant on Civil and Political Rights. In Nepal there was a similar failure to conduct independent inquiries into police brutality because of unwillingness on the part of the police to investigate and discipline fellow officers. In Thailand the heavy shackling of prisoners continued to be practised in violation of international standards. In India the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act of 1989, provided for punishment of

those responsible for a number of degrading practices, but was hardly ever implemented. In the light of those situations, the Commission should investigate the investigations mechanism of prosecution systems in Asia.

41. As the report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/2000/64/Add.1) showed, Sri Lanka's record was among the most dismal. None of the recommendations made by the Working Group had in fact been implemented - a failure which pointed to the extreme weakness of Sri Lanka's justice system, and to the involvement of high office holders. The Commission should investigate the failure of the Sri Lankan Government to honour article 2 of the International Covenant on Civil and Political Rights and to implement the recommendations of the Working Group.

42. In Indonesia in 1965-1966 Soeharto and his allies had orchestrated the disappearance of over 1 million Indonesians in the name of "communist cleansing". Thirty-five years later there had still been no thorough inquiry into those crimes against humanity. The international community could no longer maintain silence and must actively support the establishment of an independent tribunal to investigate and prosecute the crimes in question.

43. Ms. KHIEWBORRIBOON (Asian Cultural Forum on Development) said that during the military suppression of the democratic uprising in Thailand in May 1992 her 19-year-old brother had been shot dead in a peaceful demonstration against the military-led Government. Dozens of other people had been killed, thousands injured and hundreds had disappeared, and, in spite of all attempts to seek justice over the past nine years, the Government had been reluctant to give information as to the whereabouts of the missing. The number of disappearances currently stood at 34, although it was believed that many more were missing. Her organization wished to thank the High Commissioner for Human Rights and the Working Group for accepting its submissions and expressing their concern, as stated in paragraphs 111-113 of document E/CN.4/2001/68.

44. Her organization called on the Thai Government to invite the Working Group on Enforced or Involuntary Disappearances to investigate the cases mentioned, and to pay just compensation to the families concerned. The reports on investigations commissioned by the governmental agencies should be disclosed in their totality. More generally, the Government of Thailand, which had become for the first time a member of the Commission, should comply with international humanitarian covenants and abrogate the pardon provision exonerating army personnel responsible for the May 1992 massacre. She urged Member States which had not yet ratified the International Covenant on Civil and Political Rights and its Optional Protocols to do so, and encouraged all Member States to promote the implementation of the Vienna Declaration and Plan of Action.

45. Ms. PARKER (International Educational Development), congratulating the Sub-Commission's Special Rapporteur on human rights and terrorism on her contribution to work on a complex a[illegible]ntroversial subject, said that two issues were particularly contentious: State terrorism, and [illegible]inction between armed conflict and terrorism. The High Commissioner had rightly set forth the principle, in paragraph 36 of her report (E/CN.4/2001/16), that States from which persecuted groups had fled as refugees remained responsible for violations of their human rights. State terrorist regimes included Indonesia,

Sri Lanka, Afghanistan, the Islamic Republic of Iran, Turkey (especially in regard to the Kurdish population), India (in relation to Jammu and Kashmir), Sudan and Burma, while Somalia could be more accurately described as a State of terrorists. Indonesian State terrorism was most evident in the attempt to crush Malaccan aspirations to independence.

46. Such regimes deliberately blurred the distinction between terrorism and armed conflict. Although the latter could be identified by clear criteria, the United States followed by the United Kingdom had unfortunately included in their terrorist lists combatant opposition forces in countries such as Palestine, Sri Lanka, Turkey, Kashmir and Iran, thus effectively denying the right to self-determination, criminalizing humanitarian aid to victims, and intimidating human rights groups.

47. Ms. RASATKINA (International League for Human Rights) said that gross violations of human rights, including unlawful detentions, abductions and disappearances, torture and summary executions, were being perpetrated in the Chechen Republic. In the majority of cases, when people were arrested it was only weeks or even months later that their relatives located them in an interrogation centre or at a police station. In many instances, detainees were never traced or were eventually identified on discovery of their dead bodies, often displaying signs of torture. Instances had occurred in the city of Urus-Martan, in Starye Atagi village, in the city of Argun, and in many other places. She herself had seen the dead bodies of victims in February 2001 in the vicinity of Khankala, the main Russian military base in Chechnya. Although, in the absence of a state of emergency, the military did not have the right to detain civilians, footage of detained civilians being brought to the Russian military base regularly appeared on Russian television. It was clear that such detentions were not isolated actions by some undisciplined military units, but were being carried out systematically. The public prosecutor's office had shown no willingness to investigate such crimes even when, as in many cases, the identity of the military and Interior Ministry personnel involved was known. Not a single case of disappearance had been investigated, no one had been prosecuted, and no one had been held responsible for the establishment of unlawful places of detention. Her organization called on the Commission to express its serious concern about gross human rights violations in the Chechen Republic, arrange for visits to Chechnya by the appropriate Special Rapporteur, and establish an international commission to monitor the crimes committed.

48. Mr. AHTEROM (Baha'i International Community) said that the situation of the Baha'is in Egypt had sharply deteriorated over the preceding 12 months. Seven had been arrested in the Sohag area in January and two more had been detained while visiting them, a tenth being detained later. The arrests had been followed by an extensive campaign of calumny against the Baha'i faith in the press, both inside and outside Egypt, reinforced by the publication of a fatwa accusing 16 members of the community of violating the fundamental laws of Islam. Organized persecution in Egypt had begun in 1960, when all Baha'i institutions had been dissolved by Presidential Decree No. 263, and had continued with the issue of a fatwa in May 1998 presenting a distorted view of the Baha'i faith. A challenge to the legality of the Presidential Decree had been rejected by the Supreme Court, whose Administrative Division had designated the faith as an unrecognized religion. He requested the Commission to urge the Egyptian Government to repeal the Presidential Decree, release the 10 persons detained in Sohag, and cease disseminating incorrect information designed to stir up hatred against the Baha'is.

49. Mr. SYED (European Union of Public Relations), commending the report of the Special Rapporteur on the right to freedom of opinion and expression (E/CN.4/2001/64 and Add.1), said that those rights, which were essential elements of a healthy democracy, were being threatened in the Indian part of Kashmir. There, externally armed and indoctrinated militants, supported by mercenaries drawn from a number of foreign countries, were attempting to stifle the voice of Kashmiris who ventured to call into question the type of faith being imposed on the unsuspecting population, and were disrupting the long-established peaceful coexistence of people of different faiths. Inspired by political motives they operated through indoctrination of Kashmiri youth in the religious seminaries of a neighbouring country. The narrow interpretation of religion which the militants sought to inculcate had rightly been identified in the 1999 report of the United States Department of State as more potent than politics as the motivating force behind terrorist activity. The elected Government of the Indian State of Jammu and Kashmir provided every opportunity for legitimate dissent and opposition and had never attempted to deny freedom of expression or impose any curbs on the media, but the militant leadership refused to sit down at the negotiating table and discuss the issues. He called on them to give up the path of violence and join the democratic process. Only in that way could the shedding of innocent blood in Kashmir be halted.

50. Ms. BRETT (Friends World Committee for Consultation) said that, believing it to be wrong to kill or to train people to kill, Quakers claimed the right to conscientious objection to military service, not only for themselves but for all who shared their pacifist conviction. Her organization welcomed the adoption by the Commission of resolutions 1989/59 and 1998/77, the latter of which called on States to review their current laws and practices in relation to conscientious objection and requested the Office of the High Commissioner for Human Rights to prepare a compilation and analysis of best practices. That information would be a valuable tool to assist Governments in reviewing their current laws and practices.

51. Her organization also welcomed the recommendation by the Working Group on Arbitrary Detention that all States should adopt appropriate legislative or other measures to ensure that conscientious objector status was recognized and prevent the judicial system from being used to force conscientious objectors to change their convictions. The fact remained that many conscientious objectors continued to be subjected to harassment and ill-treatment, and her organization therefore called on all States to act on resolution 2000/34 and the Working Group's recommendation, and in particular: to provide for the right of conscientious objection to military service; to release all conscientious objectors from detention; to ensure that there was no discrimination in law or practice against them; to set a timetable for the review of their laws and practices; to declare an immediate moratorium on actions against those claiming the right of conscientious objection; and to provide asylum to conscientious objectors compelled to leave their country of origin.

52. Mr. JIMENEZ (Agir ensemble pour les droits de l'homme) said that the prison services in many countries were in a state of grave crisis: overcrowding, conditions incompatible with human dignity, torture and cruel and degrading treatment were being imposed on many thousands of persons. Even basic conditions, such as the provision of a cell, a bed and a food ration, often failed to be met, and the corruption of officials responsible for the internal regulation of prisons led to the proliferation of "mafiosi" who imposed their authority over collective life within prisons. Such inhuman conditions were also applied to political prisoners,

in breach of international standards of detention and of international humanitarian law. The situation of women, particularly those pregnant or breastfeeding their children, was often an insult to human dignity.

53. Another major problem was violence in prisons, which had become an increasingly common feature in recent years. States were failing to perform their duty of providing minimum standards of dignity and security, which in many cases would necessitate the building of new prisons. The situation in many Latin American countries was deplorable, especially in Colombia where over 50,000 men and women were being held in conditions of gross overcrowding, and where, in the preceding year, there had been 243 deaths and 462 cases of seriously injured people. In April 2000 persons imprisoned for paramilitarism in the model prison of Bogotá had massacred 25 people and seriously wounded 18, without any effective intervention by the custodial personnel. His organization called on the Commission to urge States to put an end to overcrowding, which was not only an offence to human dignity but a violation of human rights of prisoners; to protect prisoners, especially political prisoners, against attacks and cruel or degrading treatment; and to improve conditions for pregnant women and nursing mothers.

54. Mr. McNAUGHTON (International Human Rights Association of American Minorities) said that his organization was deeply disturbed by the recent custodial killing in Indian-occupied Kashmir of the District Baramulla Secretary of the Jammu and Kashmir Liberation Front, Mr. J.A. Shah. During peaceful demonstrations over that murder at Hygam, the Indian security forces, led by a Captain Tewari, had killed six innocent Kashmiris, and in Maisuma an Indian military officer had opened fire on the protestors, killing Mr. J.A. Nath and injuring many others.

55. He also wished to draw attention to the Turkish Government's plans to transfer political prisoners to isolation cells, which made them more vulnerable to torture and exposed them to inhuman psychological distress. In the preceding December the Government had launched a massive operation against the over 900 prisoners who had gone on hunger strike against transfers, resulting in the death of 28 prisoners and the force-feeding of others. He furthermore wished to draw attention to violations by both the Dublin administration and the occupying British Government of the human rights of individuals and groups who upheld Irish national sovereignty.

56. In June 2000 he had submitted to the Working Group on Arbitrary Detention a complaint regarding the illegal detention and brutal torture of four Mexican social activists by the Mexican security forces. In the absence of a response to a report on the matter transmitted to the Permanent Mission of Mexico in Geneva, the Working Group had forwarded its decision in favour of the allegations, as Opinion No. 37/2000 to the Permanent Mission. More than 12 weeks later no attempt had been made by the Mexican Government to remedy the situation. He therefore requested the Commission to call on the Mexican Government to release the four individuals concerned immediately and unconditionally.

57. Mr. DARATZIKIS (Observer for Greece), speaking in exercise of the right of reply, said that the representative of Albania's statement, with reference to the report by the Special Rapporteur on the right to freedom of opinion and expression (E/CN.4/2001/64/Add.1), that there were 58,758 Albanian citizens of Greek origin was inaccurate. According to the official data of the Greek authorities the correct number was about 200,000.

58. Ms. PHOTHONG (Thailand), speaking in exercise of the right of reply, said that the allegation by the representative of the Asian Cultural Forum on Development that the Thai Government had been reluctant to give information about the consequences of the tragic events of May 1992 was not in accordance with the facts. Three reports on investigations into the incident had in fact been published in full, and the Information Act of 1997 guaranteed the right to obtain official information. The Thai Government was committed to upholding the principle of transparency and freedom of information. Further details about the actions undertaken by the Thai Government could be found in paragraphs 114 and 115 of document E/CN.4/2001/68.

59. Since the incident in question, the Thai Government had provided over 100 million baht as material support to the affected families. An amnesty decree, which applied to all concerned parties, both public and private, had been issued with a view to bringing about national reconciliation.

60. The use of shackles in Thai prisons, as referred to by the representative of the Asian Legal Resource Centre, occurred only in special cases, in particular when a prisoner attempted to escape, or to commit suicide, or was mentally unstable and violent and a danger to other prisoners.

The meeting rose at midnight

The meeting was called to order at 10.15 a.m.

STATEMENT BY MR. VLADIMIR KALAMANOV, SPECIAL REPRESENTATIVE OF THE PRESIDENT OF THE RUSSIAN FEDERATION FOR THE PROTECTION OF HUMAN AND CIVIL RIGHTS IN THE CHECHEN REPUBLIC

1. Mr. KALAMANOV (Russian Federation) said that, the previous year, the President of the Russian Federation had entrusted him with reassuring the population of the Chechen Republic that the protection of human rights and freedoms was truly the primary goal of the Russian Federation, that violations of those rights and crimes would not be ignored or hushed up, regardless of their perpetrators, and that the latter would be brought to justice in accordance with the law. The Office of the Special Representative of the President for the Protection of Human and Civil Rights in the Chechen Republic had focused on that task and had done its best to guarantee that the protection of citizens, regardless of their nationality or religious or political beliefs, would be the dominating feature of the activities of law-enforcement bodies. That goal was based on the Russian Federation's internal needs and the provisions of its Constitution and laws, and was not the product of any outside pressure. Of course, in the framework of its international obligations, the Russian Federation had continued to cooperate with international organizations, in particular with the Council of Europe and its Parliamentary Assembly, and had tried, to the extent possible, to take into consideration their constructive recommendations.

2. He had no intention of embellishing the situation. Serious problems still remained. Currently, the activities of terrorists were directed not only against the federal forces and representatives of the administration of the Chechen Republic but also against the civilian population, the principal objective being to spread fear among those who wished to cooperate with the authorities and re-establish normal life. However, those problems did not prevent the constant strengthening of human rights protection and the reconstruction of the foundations of a democratic society based on the interests of the person, contrary to what had been claimed by those who had told the Commission that nothing had been done in the human rights area in the Chechen Republic.

3. Practical measures had been taken to re-establish judicial authority in the Republic. On 26 March 2001, the Supreme Court of the Chechen Republic, consisting of six judges, and 12 district courts, with a total of 24 judges and 132 bailiffs, were operational and had already received 1,213 civil cases and 178 criminal cases. Moreover, the bar of Chechnya was composed of 150 lawyers. At the administrative level, 150,000 passports had been issued, and all other residents of the Chechen Republic had been issued temporary identification documents. More than half of the checkpoints had been closed, and those that remained were manned by mixed teams composed of personnel from the federal forces and the Chechen police. That had resulted in a significant decrease in the number of complaints from citizens regarding extortion or rude treatment when crossing certain checkpoints. The Ministry of the Interior of the Russian Federation had decided to establish police stations in 130 towns in the Chechen Republic in order to guarantee the security of the local population and maintain law and order.

4. With regard to the tracing of missing persons, his Office had compiled a list of 700 people based on complaints received from the population. According to the Ministry of the Interior of Chechnya, 90 persons had been found in 2000 and 11 in the first quarter of 2001. Information regarding those persons had been forwarded to their families. The Office of the Procurator of the Chechen Republic was currently investigating the criminal case involving persons found buried in the Zdorovye horticultural community. In all, 292 tracings and 137 criminal cases had been initiated on the basis of the list submitted by the Office of the Special Representative. The same would be done for the other persons on the list as soon as the information and necessary documents were available. That task was made difficult by the fact that the relatives of missing persons were constantly travelling either in the Chechnya or in other regions, and the police sometimes found it difficult to contact them.

5. The Office of the Military Procurator had charged 64 persons, including 21 for murder. The investigation of the 17 criminal cases, including the case against Colonel Budanov, was complete and the cases had been submitted to the courts, which had already sentenced seven servicemen for committing various crimes against the local population. The remaining cases were being investigated. The Office of the Military Procurator was verifying information received from the population and non-governmental organizations, including information on the placing of persons in "pits". In that regard, it should be recalled that branches of the Procurator's Office in the Chechen Republic had been completely destroyed prior to the restoration of constitutional order in Chechnya. That explained the slowness of the investigation which, in normal times, was already a stage in the relatively long criminal proceedings when it was conducted in a serious manner. On 26 March 2001, he had signed, with the Deputy Procurator-General of the Russian Federation and the Chief Military Procurator, Mr. Kislitsin, an agreement on the establishment of a joint working group composed of members of his Office, the Office of the Procurator-General of the Russian Federation and the Office of the Procurator of the Chechen Republic with a view to guaranteeing the protection of human rights in Chechnya in accordance with the Constitution of the Russian Federation and taking into account the relevant recommendations of the Parliamentary Assembly of the Council of Europe. The working group was entrusted with coordinating joint efforts when examining complaints and appeals by citizens of the Russian Federation who were residents of Chechnya and who believed that their rights had been violated by servicemen and representatives of other law-enforcement structures.

6. At the same time, comprehensive measures were being taken to restore the economic and social rights of the population of the Chechen Republic. Thus, nearly 50 million roubles had been allocated to the rehabilitation of the educational system, and 100 million roubles had been spent on the rehabilitation of hospitals and clinics. Moreover, the total amount of pensions paid as of 1 January 2001 had been 1.192 million roubles. In addition, 277 million roubles had been allocated to pay the salaries of civil servants, and 158 million to pay family allowances. Costs related to construction, rehabilitation of housing, agricultural work, recreational facilities, transport, communications and social care activities amounted to 414 million roubles. The amount of resources allocated by the Russian Federation for the rehabilitation of the Chechen economy and the social sphere in 2001 totalled 14.7 billion roubles.

7. With regard to displaced persons, the Chechen Government had taken various measures to create conditions for the massive and voluntary return of persons who had been forced to leave the Chechen Republic: transport, accommodation, food supplies, humanitarian assistance (from the Office of the United Nations High Commissioner for Refugees (UNHCR), the United Nations Children's Fund (UNICEF) and the World Food Programme (WFP)) and medical assistance, job creation, adoption of a decree on compensation to persons whose property had been damaged in the course of the counter-terrorist operation in the northern Caucasus, organization of summer vacations for children of forced migrants, opening of a social rehabilitation facility and provision of recreational activities for orphans and abandoned children.

8. In conclusion, he said that international humanitarian assistance did not reach Chechnya proper. In that regard, the Russian Federation had stressed on numerous occasions that the reorientation of humanitarian aid to the Chechen Republic from Ingushetia would contribute to the political stability, social and economic rehabilitation and the return of displaced persons. Moreover, the Russian and Chechen authorities guaranteed the safety of the staff of humanitarian organizations that where ready to cooperate with them. It seemed that certain persons were not interested in the stabilization of the situation in Chechnya. He hoped that the Commission's discussions on Chechnya would be objective and would lead to the adoption of a balanced decision conducive to the normalization of the situation.

CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF:

(a) TORTURE AND DETENTION
(b) DISAPPEARANCES AND SUMMARY EXECUTIONS
(c) FREEDOM OF EXPRESSION
(d) INDEPENDENCE OF THE JUDICIARY, ADMINISTRATION OF JUSTICE, IMPUNITY
(e) RELIGIOUS INTOLERANCE
(f) STATES OF EMERGENCY
(g) CONSCIENTIOUS OBJECTION TO MILITARY SERVICE

(Agenda item 11) (*continued*) (E/CN.4/2001/4, 9 and Add.1 and 2, 10, 11, 14 and Add.1, 58, 59 and Corr.1 and Add.1, 60, 61, 63, 64 and Add.1, 65 and Add. 1-3, 66 and Add.1, 67, 68, 69 and Add.1, 116, 137 and Corr.1, 138 and 149; E/CN.4/2001/NGO/2, 16, 23, 31, 47, 49, 50, 52, 64-71, 76, 90-94, 98, 99, 101, 110, 115, 116, 132-135, 137 and Corr.1, 138-145, 150, 159, 167, 168, 181 and 182; A/55/178 and 280 and Add.1 and 2; A/RES/55/89)

9. Ms. ACOSTA (Mexico), speaking on behalf of the Group of Latin American and Caribbean States (GRULAC), said that, in previous years certain countries of the region had been severely affected by the enforced disappearances of thousands of persons, the painful effects of which still could be felt. The fate of many of those persons was not known. In order to prevent such a violation of the most fundamental human rights from recurring, the countries of the region had adopted the Inter-American Convention on Forced Disappearances.

10. Unfortunately, that phenomenon affected all regions of the world, as had been verified by the Commission's Working Group on Enforced or Involuntary Disappearances. GRULAC had always supported initiatives to suppress that practice. It had studied with great interest the draft international convention for the protection of all persons against enforced disappearances that the Subcommission on the Promotion and Protection of Human Rights had transmitted to the Commission through its resolution 1998/25 of 26 August 1998. Since a large number of Governments, specialized agencies, non-governmental organizations and working groups, particularly the Working Group on Enforced or Involuntary Disappearances in its report (E/CN.4/2001/68, annex III), had expressed their opinions on the project, GRULAC, like the Working Group, a number of Governments and non-governmental organizations, considered that the time had come to establish an intersessional working group of the Commission to study the draft convention in the light of the aforementioned opinions with a view to drafting a consensus text. The representatives of the States which would exchange views in that Working Group could take account of the provisions on enforced disappearances contained in the Rome Statute of the International Criminal Court. GRULAC was convinced that the adoption and entry into force of the international convention would be a significant contribution to the protection of all persons against one of the most inhuman violations of human rights.

11. With regard to measures to combat torture and other cruel, inhuman or degrading treatment, GRULAC regretted that it had not been able to provide its views on the report of the Special Rapporteur on that question (E/CN/2001/66 and Add.1 and 2) which, according to the secretariat, had been distributed late owing to its size. Did that mean that the number of cases of torture was growing? If that was so, urgent measures should be taken at the national and international levels to address the situation. In that regard, she regretted that the preparation of a draft optional protocol to the Convention against Torture was at a standstill. In order to break the deadlock, GRULAC proposed a solution based on four fundamental ideas. First, in its decision 1989/104, the Commission requested the Working Group established for that purpose to prepare a draft protocol of a preventive nature precisely because control mechanisms already existed. The proposal therefore incorporated the recommendations formulated by international and regional mechanisms engaged in the suppression of torture, on the establishment of national bodies for preventing that practice. Second, States were primarily responsible for ensuring respect for human rights and preventing practices, such as torture. The international community should

encourage and strengthen the political will to ensure full respect for those rights. Third, in accordance with the principle of complementarity of the norms of international law, international action should be linked to the primary responsibility of States through the international commitments undertaken by States in the field of human rights. Fourth, international cooperation was one of the most effective ways of promoting and protecting human rights. GRULAC therefore requested that the Working Group's mandate should be extended for one year in order to enable it to complete the task with which it had been entrusted.

12. Mr. COUTURIER (Peru) said that Peru was firmly committed to strict respect for human rights and democratic principles, as could be seen from the exemplary and transparent electoral campaign that had preceded the general elections, which would be held in a few days. Armed with that conviction, Peru had again undertaken the task of building a more just and equitable society in which all Peruvians could exercise all their human rights. Such rights were universal, indivisible and interdependent and should be treated in a non-discriminatory and balanced manner.

13. Peru was in favour of the international protection of human rights and had completely normalized its relations with the Inter-American Court of Human Rights and had recently signed the Statute of the International Criminal Court. Moreover, the Government had decided to establish a working group that would include representatives of the State, civil society and churches. The working group would be entrusted with the establishment of a truth commission that would open the way for true national reconciliation. Peru was determined to adhere scrupulously to the international instruments particularly the human rights instruments, to which it was a party. In that regard, it was taking active measures to combat poverty and promote human development, improve the status of women, protect vulnerable groups and foster the authentic development of indigenous populations by respecting their cultural identity. In the same spirit, Peru was cooperating closely with international bodies and mechanisms for the promotion and protection of human rights in order to give effect to the slogan "all human rights for everyone".

14. Peru supported without reservation the establishment of an intersessional working group to prepare a draft international convention against enforced disappearances. It also considered that the mandate of the Working Group to prepare a draft optional protocol to the Convention against Torture should be extended for one year. In that regard, it called on the participants to be flexible so that a compromise could be found as soon as possible.

15. Peru had a long way to go before it would be able to offer all its citizens an economically dignified life. Only cooperation between the Government, civil society and international organizations would enable it to take up that challenge.

16. In conclusion, his delegation wished to pay homage to the non-governmental organizations and international human rights protection mechanisms for the efforts that they had been making for decades to implement the ideals of the Universal Declaration of Human Rights.

17. Mr. CUMARASWAMY (Special Rapporteur on the Independence of Judges and Lawyers), introducing his report (E/CN.4/2001/65 and Add.1-3), thanked all Governments and non-governmental organizations that had maintained a dialogue with him over the past year, particularly the Governments of South Africa, Belarus and the Slovak Republic, where he had carried out missions.

18. The main part of the report (E/CN.4/2001/65) contained information on his activities over the past year and on the situation of the independence of judges and lawyers in some forty countries. In that regard, he encouraged all Governments to supply information on issues of concern encountered by their judiciaries or on progress made in disseminating the United Nations Basic Principles on the Independence

of the Judiciary and on the Role of Lawyers. Governments should also encourage their judiciaries and the legal profession to develop closer relations with the Special Rapporteur.

19. The overall situation of lawyers had not improved. Many lawyers had been harassed and had even received death threats. Lawyers played a critical role in protecting the rights of the accused and should not be identified with their clients or their clients' causes or persecuted for the legal defence of human rights. An independent, self-governing legal profession was an essential requirement for ensuring compliance with the rule of law. In that regard, he was pleased that Egyptian lawyers had been able to elect, in February 2001, their representatives to the Egyptian Bar Association. He hoped that the newly established Bar Council would uphold the independence of members of the legal profession.

20. In Northern Ireland, lawyers continued to be harassed and intimidated. He had reiterated his call for an independent judicial inquiry into the murders of Patrick Finucane and Rosemary Nelson. He did not rule out the possibility that State security services were involved in those murders. Mr. John Reid, the Secretary of State for Northern Ireland, had assured him that the possibility of an independent judicial inquiry had not been ruled out, at least in the case of the Patrick Finucane murder. He said that he had an ongoing dialogue with the John Stevens investigation team on the murder of Patrick Finucane, and the Colin Port team on the murder of Rosemary Nelson.

21. In Zimbabwe, the Government's refusal to provide protection for judges who had been threatened or harassed posed a serious threat to the independence of the judiciary and led him to question the Government's commitment to putting an end to such practices. The Government of Zimbabwe had also ignored some decisions of the highest courts. However, following an agreement concluded on 2 March 2001 between the Chief Justice and the Government, threats against judges seemed to have eased. He was waiting for the Government to indicate when he could carry out a mission to Zimbabwe. During his visit to South Africa in May 2000 (E/CN.4/2001/65/Add.2), he had considered the following issues: the independence of magistrates, unification of the judiciary, integration of the legal profession and the establishment of a mechanism to evaluate complaints against judges. In his opinion, such a mechanism should be composed entirely of members of the judiciary in order to eliminate the possibility that the mechanism could be used to intimidate or harass judges.

22. With regard to Guatemala, he called on the Commission to condemn the brutal lynching of judge Alvaro Hugo Martínez Pérez on 13 March 2001. Such acts were contrary to the principle of the rule of law, which was the very foundation of a civilized society. With respect to Pakistan, he had recently received disturbing information alleging that the judge who in 1999 had presided over the trial of the former Prime Minister, Mrs. Benazir Bhutto, had been pressured into returning a conviction and a sentence of five years' imprisonment. He had expressed his concerns to the Government of Pakistan. He believed that any accused person, whoever he or she was and whatever the offence he or she had been charged with, had the right to a fair trial by an independent and impartial tribunal. That was a basic tenet of international law.

23. He was continuing to consider methods of strengthening the integrity and accountability of the judiciary. He had participated in two meetings of the Judicial Group on Strengthening Judicial Integrity that had been held, respectively, in Vienna in April 2000 and in Bangalore, India, in February 2001. At the meeting in Bangalore, a draft judicial code of ethics had been formulated.

24. In June 2000, he had conducted a mission to Belarus, and he wished to thank the Government for its cooperation. The independence of Belarusian judges and lawyers with respect to the executive was not fully ensured. In order to address that situation, he had recommended that the controversial 1996 Constitution, which gave excessive powers to the President, should be amended. He had also called for the establishment of an independent judicial body, composed mainly of judges, that would appoint, discipline and remove judges.

25. In November 2000, he had conducted a mission to the Slovak Republic, where the Government had attempted to remove the President of the Supreme Court on the grounds that he no longer had the moral authority to be President of that body. The Government had also justified its proposal by stating that he would not be stripped of his position as a judge but only of his position as President of the Supreme Court. In his report, the Special Rapporteur explained why the Government's arguments that the position of President of the Supreme Court was different from that of a judge and that the constitutional conditions for the removal of a judge were therefore not applicable, were completely groundless. The Government's claim that a judge who served as President of the Supreme Court was part of the executive arm of the Government conflicted with the very essence of an independent judiciary as provided for in article 141 of the Constitution of the Slovak Republic. That would mean that the President of the Supreme Court was a functionary of the executive. Moreover, security of tenure, which was a core value of judicial independence, would be violated if the President could be removed by a simple decision of the executive or Parliament before his five-year mandate expired. In that regard, the Special Rapporteur had been pleased to note that, on 19 December 2000, Parliament had rejected the Government's petition to remove the President of the Supreme Court.

26. In general, the principle according to which judges must be completely independent in their decision-making should be upheld. A judge who was considered to be part of the executive when exercising administrative functions could not be considered to be independent when exercising judicial functions. The executive nature of administrative functions could not be used as an excuse by Governments to exercise control over the judiciary.

27. In that context, he was concerned at the proposed amendments to the 1991 Act on Courts and Judges currently before the Parliament of the Czech Republic. If the Parliament approved those amendments, the Minister of Justice would be vested with considerable power over the judiciary. The Special Rapporteur had written to the Government in order to express his concerns.

28. He would conduct a mission to Mexico in May 2001 and a mission to Saudi Arabia in October 2001. At the request of all concerned, he would travel to Guatemala to evaluate the extent to which his recommendations had been implemented. That mission would take place immediately prior to his mission to Mexico.

29. Mr. MALAVICH (Observer for Belarus) said that Belarus had not hesitated to cooperate with the Special Rapporteur. It had provided him with all the necessary information and had arranged a whole series of meetings with representatives of the judiciary, non-governmental organizations, political circles and the press. While the Special Rapporteur had certainly accomplished a great deal of work, his bias in reporting the facts and his formulation of conclusions based on information provided by malcontents, his reluctance to accept the Government's assistance and his failure to consider some data, had not contributed to the objectivity of his report. His delegation therefore rejected the claim that human rights were not respected in Belarus. The Special Rapporteur had not considered the measures that had been taken, and his allegation that "the consolidation of power in the office of the President has also corresponded with a marked decline in respect for human rights" (A/CN.4/2001/65/Add.1, para. 15), did not seem justified. In paragraph 18 of his report, the Special Rapporteur noted that several States had not recognized the results of the 1996 referendum in Belarus. Only a few States out of the 189 States Members of the United Nations had officially expressed their position. Moreover, Belarus was a member of the Interparliamentary Union.

30. The report contained unverified information. The information contained in paragraph 41, in which the Special Rapporteur claimed that the President of Belarus had threatened the Chairman of the Constitutional Court, who had overturned a presidential decree, and that the other judges had maintained their support for Chairman of the Court, was based on statements made by a person who had not been appointed member of the Constitutional Court at the time of the January 1997 reforms. The Special

Rapporteur had not taken advantage of the opportunities, offered by the Government, to meet with official representatives. He had not taken sufficient account of the Government's arguments or of the fact that there was an organization that regulated the activities of lawyers. The Special Rapporteur had ignored other information on the situation of the lawyers mentioned by name. He had not used the information that he had received, nor had he requested additional information. Thus, there was reason to question the validity of the statements in the report concerning cases being examined by the lawyers in question. The same was true of the information contained in paragraph 88 of the report, in which the Special Rapporteur indicated that he had learned that threats had been made to notaries and their families in order to force them to sign a declaration by which they voluntarily undertook to repay the fees paid to them. The Special Rapporteur had not sought to gather more precise information on the subject even though he had had the opportunity to do so.

31. The biased treatment of facts would not facilitate cooperation among interested countries and United Nations mechanisms. Although the report referred to the referendum and the October 2000 elections and to the boycott organized by political parties, it said nothing about the judicial system or the entry into force of the Criminal Code and the Code of Criminal Procedure or of the adoption, in accordance with European standards, of rules relating to the rights and duties of judges, lawyers and procurators. Moreover, the claim that Belarusian legislation was not in conformity with the international obligations of Belarus was unfounded. Belarus was a new democracy and its legislation was currently being reformed. Laws were gradually being brought into conformity with international standards, which reflected a positive process that should be taken into account above all. It should be noted--and the Special Rapporteur had acknowledged the fact—that Belarus had ratified six United Nations human rights instruments, as well as the Optional Protocol to the International Covenant on Civil and Political Rights.

32. It should not be forgotten that the Special Rapporteur's visit had been the first fact-finding mission to be conducted in a country of the former Soviet Union. The judicial system that had still existed 10 years earlier had differed radically from the standards that had recently been adopted. The reform and restructuring of political and economic structures was an arduous task. Nevertheless, the basic goals of the reform of the Belarusian judicial system was to guarantee the independence of judicial bodies, humanize their work and ensure that they acted in the interest not of a minority but of society as a whole. Considerable progress had been made in achieving those goals.

33. In conclusion, his delegation wished to thank the Special Rapporteur for his work and hoped that the situation in Belarus would be examined in a way that took account not only of the views of non-governmental organizations but also those of official government representatives.

34. Mr. PETÖCZ (Observer for Slovakia) said that Slovakia was a traditional co-sponsor of the draft resolution on the independence of judges and lawyers, and it fully supported the mandate of the Special Rapporteur on that question, Mr. Cumaraswamy. The Government of Slovakia had begun a constructive dialogue with the Special Rapporteur during his visit to Slovakia and had remained in contact with him. The Government was prepared to enter into a dialogue with any other rapporteurs if they so wished.

35. Another representative of his delegation would take the floor to present its comments on the report of the Special Rapporteur.

36. Mr. LIPŠIC (Observer for Slovakia) said that the Government of Slovakia attached high priority to the independence of the judiciary, which was one of the basic principles of the rule of law. In 2000, the Slovak Parliament had adopted the Act on Judges, which strengthened the autonomy of the judiciary vis-à-vis the Ministry of Justice. The constitutional amendment establishing the Judicial Council of the Slovak Republic had been adopted by the Parliament in February 2000 and would enter into force in July 2001. The Council would be headed by the President of the Supreme Court and composed of eight judges elected and removed by the judiciary, three members elected and removed by the Parliament, three

members appointed and removed by the President of the Republic, and three members appointed and removed by the Government. The Judicial Council was entitled to make proposals to the President of the Republic concerning the appointment or removal of magistrates and the assignment and transfer of judges, and the appointment or removal of the President and Vice-President of the Supreme Court. It also had the power to elect and remove members of the disciplinary panel. Its other powers would be regulated by an act on the Judicial Council, which was in preparation and would enter into force on 1 July 2001. Article 145 of the Constitution authorized the President to appoint for an unlimited period and remove judges at the proposal of the Judicial Council. Other acts on the implementation of the new constitutional provisions on members of the judiciary were also being prepared.

37. The Government of Slovakia, which had questioned the professional competence of the President of the Supreme Court, Mr. Harabin, had submitted a motion to the Parliament to remove him and replace him with a judge who had the support of his peers. While it appreciated the importance of the Special Rapporteur's mission to the Slovak Republic, his delegation wished to point out that Mr. Harabin did not have majority support in the Parliament: that was a clear and proven fact. Second, contrary to what the Special Rapporteur stated in paragraph 54 of his conclusions, the Government had grounds for saying that the position of a judge and the position of President of the Supreme Court were distinct positions, since that distinction was made by the Slovak Constitution and Slovak law. Therefore, the Government's proposal to remove Mr. Harabin from his position as President—but not from his position as judge—could not be considered to be a violation of the principle of judicial independence.

38. The Special Rapporteur considered it inconceivable that a president of the Supreme Court could be removed from his position "on mere allegations by the Government without those allegations being proved before a competent tribunal". The competent body in that area was the Parliament, before which Mr. Harabin had had ample opportunity to plead his cause. Moreover, the Special Rapporteur was mistaken in saying that the "haste" with which the Government had sought to remove Mr. Harabin shortly before the entry into force of a constitutional amendment had led to the perception that the attempt was politically motivated. The draft amendment that had been debated in the Parliament during the Special Rapporteur's visit contained a provision removing the President and Vice-President of the Supreme Court. It was difficult to understand what the political motivation could have been since, after the adoption of the amendment, Mr. Harabin could have been removed anyway. It should be pointed out that the National Board of the Association of Slovak Judges, as well as the eight elected members of the Judicial Council of the Supreme Court, had officially supported the Government's motion to recall Mr. Harabin. That motion had nevertheless been rejected by the Parliament.

39. Later developments had confirmed that the principle of judicial independence had been invoked only to enable Mr. Harabin to satisfy his personal ambitions. On 30 March 2001, the eight elected members of the Judicial Council of the Supreme Court had signed an open letter to Mr. Harabin accusing him of not respecting the will of the judges of the Supreme Court by issuing an order for the purpose of electing the presidents of the Supreme Court's four chambers. The National Board of the Association of Slovak Judges had sharply criticized Mr. Harabin for creating obstacles for Supreme Court judges in the Association. Thus, the moral authority of Mr. Harabin was seriously weakened, which confirmed the Government's position on the matter.

40. Mr. TOSEVSKI (Chairman-Rapporteur of the Working Group on Enforced or Involuntary Disappearances), introducing the report of the Working Group (E/CN.4/2001/68), said that, since its establishment in 1980, the Working Group had transmitted over 49,500 cases of alleged disappearances to 76 Governments. Of those cases, only 3,500 had been clarified, which was not very encouraging. In 2000, the Group had transmitted 487 new cases of disappearance to 29 countries; 95 of those cases had been transmitted under the procedure of urgent action appeals. There were 73 countries with outstanding cases of enforced or involuntary disappearances.

41. It was crucial that those countries should make every effort to determine what had happened to the disappeared persons, particularly by developing forensic medicine programmes and organizing the exhumation and identification of mortal remains from mass graves and other places where victims of enforced disappearance could have been clandestinely buried. Other mechanisms should also be explored, such as the acknowledgement of the responsibility of the State and the award of appropriate compensation to the victims and/or their families—not only compensation but also medical, psychological and legal support, social rehabilitation, and restoration of personal liberty, employment and property. In that regard, the Working Group commended the efforts of the Government of Sri Lanka to clarify outstanding cases: in 2000, the Government had provided information on more than 6,000 cases, most of them with legal certificates of presumption of death and indications of compensation given to the families of the victims.

42. He emphasized that impunity continued to be one of the main causes of enforced disappearances and one of the main obstacles to the clarification of cases, and that the full implementation of the 1992 Declaration on the Protection of All Persons from Enforced Disappearances was crucial for the prevention and termination of that very serious human rights violation. The Working Group hoped that the Commission would speed up the process of drafting an international convention on the protection of all persons from enforced disappearances, and welcomed the idea to establish an intersessional working group to consider the draft convention.

43. He thanked the outgoing members of the Working Group who had been or would soon be replaced for their contributions. He also thanked non-governmental organizations for their cooperation and support, and called on all Governments to guarantee the protection of those organizations and their members who, in some countries were suffering harassment and even persecution. Finally, he emphasized that, in order to ensure the effective fulfilment of its mandate, the Working Group urgently required resources, in particular additional staff.

44. Sir Nigel RODLEY (Special Rapporteur on Torture), introducing his report (E/CN.4/2001/66 and Add.1), said that, since 2001 was the year of the World Conference against Racism, he had addressed the question of racism and related intolerance, since he had often received information indicating that members of racial or ethnic groups were, more frequently than others, victims of torture and other forms of ill-treatment. Ethnic difference could often contribute to the process of the dehumanization of the victim, which was a necessary condition for torture.

45. As indicated in chapter I of the report, no mandate-related issues had arisen during the year under review. Continuing efforts had been made to work cooperatively with other Commission mandates in order to avoid duplication of activities. As he indicated in chapter II, which described the activities undertaken in 2000, he had been requested by the General Assembly to submit an interim report to its fifty-fifth session on overall trends and developments with regard to his mandate. In November 2000, he had submitted a report (A/54/290) to the Third Committee. He had also attended the session of the Commission's Open-ended Working Group on the draft protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. He had carried out two missions in the period under review, one to Azerbaijan in May 2000 and the other to Brazil in August and September 2000. He summarized the steps that he had taken to encourage various countries, including Uzbekistan, the Russian Federation, the People's Republic of China and the Kingdom of Nepal, to invite him to visit them. His requests to visit India, Indonesia, Egypt, Algeria, Bahrain and Tunisia had still not resulted in invitations to visit those countries.

46. He informed the Commission that, since he had indicated in a letter dated 14 March 2000 to the Chairperson of the fifty-sixth session of the Commission that he had not received information indicating the existence of a significant incidence of torture in the occupied Palestinian territories, he had concluded that there was no basis for undertaking a fact-finding mission in that region, as the Commission had requested in its resolution S-5/1 adopted at its fifth special session, which was devoted to the

consideration of violations of the human rights of the Palestinian people by Israel. He noted that the Working Group on Enforced or Involuntary Disappearances had adopted the same approach and that the issue did not seem to have elicited the attention of the commission of inquiry established pursuant to Commission resolution S-5/1 at the time of its visit in the territories. Nevertheless, in the light of more recent information that he had received, he intended to request the Government of Israel to invite him to visit the territories to investigate the situation.

47. Chapter III contained summaries and the urgent appeals that he had sent to the Governments of 98 countries and the replies received up to 15 December 2000. It also included his observations on the practice of torture in 43 countries, which were based on information received on the subject. The fact that there was no such observation in respect of a particular country did not necessarily mean that there was no problem in that country. A summary of the observations of the Government of Cameroon following his mission to that country was contained in paragraphs 220 to 230 of the report. Since the completion of the report, he had received replies from a number of States to allegations contained in the report.

48. In his conclusions and recommendations, he had briefly taken stock of the situation in respect of the problem of torture and cruel, inhuman or degrading treatment or punishment. The increase in the number of allegations in that regard did not necessarily mean that the phenomenon was increasing. It was, however, clear that no area of the world could claim to be free of torture; on the contrary, in some areas, torture was practised intensively. He was encouraged by the growing recognition that impunity was the main cause for the continuance of the practice of torture and that measures were beginning to be taken at the national and international levels to counter impunity. He urged all States to ratify the Statute of the International Criminal Court and, at the same time, to ensure that their national courts also had jurisdiction over genocide, crimes against humanity and war crimes. In order to counter impunity, all opportunities to commit an unpunished crime, such as incommunicado detention, must be eliminated. That was why he advocated, for the purposes of establishing State responsibility, a reversal of the burden of proof in relation to allegations of torture in cases of prolonged incommunicado detention. That was also why he had consistently recommended external supervision of all places of detention by independent officials, such as judges, prosecutors, ombudsmen and national human rights commissions, as well as civil society. There needed to be a radical transformation of assumptions about the nature of deprivation of liberty, and prisons and police stations should be generally made open and not closed and secret places.

49. He referred to his visit to Azerbaijan, which was described in document E/CN.4/2001/66/Add.1. He noted that torture was believed by many detainees to be automatic, and the mere threat of adverse consequences for failure to comply with investigators was assumed to mean torture. For some, the simple fact of detention had the same implication. While he had not had the time to corroborate whether those fears were well-founded, it was clear that the investigating authorities did nothing to dispel them. He pointed out that the fear of physical torture could itself constitute mental torture. On the basis of the information he had received during his visit, he had concluded that torture was widespread, and he had made various recommendations in paragraph 120 of his report. Considering the palpable fear that he had observed in persons detained at the remand centre of the Ministry of National Security, he recommended that the Government should give urgent consideration to discontinuing the use of that centre, preferably for all purposes, or at least reducing its status to that of a temporary detention facility.

50. All the information that he had gathered and all the results of the inquiries that he had conducted led him to believe that his mandate remained useful and that the Commission should renew it.

51. Mr. FERNÁNDEZ PALACIOS (Cuba) said that the secretariat should explain why the Special Rapporteur on Torture was able to submit a 300-page report while all other rapporteurs and special representatives had to adhere to the 32-page rule established by the General Assembly.

52. His delegation was surprised that the Special Rapporteur had not deemed it appropriate to accede to the Commission's request that he ask Israel for an invitation to visit the occupied Palestinian territories, on the pretext that he had not received any reports of torture. Only now, six months later, had the Special Rapporteur decided to seek permission to visit the territories. However, it was up to him to decide. The Commission had given him a mandate and he should have taken immediate action. His delegation believed that the Special Rapporteur's attitude undermined the credibility of special procedures. It was a serious matter, which could pose an obstacle to consensus on the draft resolution that would be submitted on the question.

53. Ms. IZE-CHARRIN (Secretary of the Commission), replying to the question asked by the representative of Cuba, said that, according to paragraph 3 of document E/CN.4/2001/CRP.2, certain documents prepared for the session—documents that were too long or submitted too late—could not be issued in all the official languages owing to the limited resources of the Division of Conference Services of the United Nations Office at Geneva. She also referred to paragraphs 4 and 5 of the same document, which explained the position of the secretariat of the Commission, which was doing its best to meet all requests in the area of documentation and to ensure that equal treatment was given to documents arising from all the mandates given by deliberating bodies. Owing to its length, the report of the Special Rapporteur on Torture had not been translated into all languages.

54. Mr. DEMBRI (Algeria) said that his delegation did not understand why the Special Rapporteur on Torture had not fulfilled the mandate with which the Commission at its fifth special session had formally entrusted him. His delegation did not approve of the content or the tone of the letter dealing with that matter that the Special Rapporteur had sent to the President of the fifty-sixth session of the Commission. The Special Rapporteur on Torture had somehow arrogated to himself discretionary power; that was not appropriate. His delegation therefore requested the Special Rapporteur to provide a more credible explanation for his failure to comply with the Commission's request.

55. The CHAIRPERSON said that the Special Rapporteur could reply to the question in his final comments, after the Commission had completed its consideration of his report.

56. Mr. MUSAYEV (Observer for Azerbaijan) said that, in recent years, Azerbaijan had undertaken sweeping reforms, including reforms of its judicial and penitentiary systems, with a view to establishing the rule of law and ensuring the protection of human rights and fundamental freedoms. The Government of Azerbaijan was endeavouring to cooperate fully with all international institutions, particularly United Nations agencies, and with non-governmental organizations.

57. In November 1999, after its consideration of the initial report of Azerbaijan (CAT/C/37/Add.3) concerning measures taken to implement the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Committee against Torture had noted with satisfaction Azerbaijan's ongoing efforts to establish a legal framework to safeguard human rights. The President of the Republic had established a working group, composed of representatives of his administration, members of the Ministry of Foreign Affairs and the Ministry of Defence, law-enforcement officials and representatives of the Supreme Court of the Republic, to undertake a careful examination of the recommendations of the Committee against Torture and investigate all allegations of violations. The Supreme Court had devoted one of its plenary sessions to the consideration of legal practice in the field of ensuring and observing human rights and fundamental freedoms, and had adopted a resolution that reflected the recommendations of the Committee against Torture and of Amnesty International. As part of the reform of the penitentiary system, it had been decided to ensure the transparency of places of detention. In that regard, an agreement had been signed between the Government of Azerbaijan and the International Committee of the Red Cross (ICRC) in order to grant ICRC access to all detention centres.

58. The Government of Azerbaijan was interested in cooperating with the thematic mechanisms of the Commission on Human Rights and had therefore invited the Special Rapporteur on Torture, Sir Nigel Rodley, to undertake a fact-finding mission to Azerbaijan. The Government was currently undertaking all the necessary measures to implement the recommendations contained in the report of the Special Rapporteur (E/CN.4/2001/66/Add.1). The Working Group established by the President of the Republic had carefully examined the report in question, including the individual cases mentioned in the report, and had noted that the Special Rapporteur's mission had coincided with the process of judicial and legal reforms in Azerbaijan. That was why some measures taken by the Government after the Special Rapporteur's visit had not been reflected in the report. In particular, the new Criminal Code and Code of Criminal Procedure had been adopted after the mission. The Special Rapporteur had not been able to reflect all the relevant provisions of those codes in his report; in some instances, some of those provisions had even been reflected incorrectly. The Working Group had also examined all the cases referred to in the report and had concluded that the majority of the allegations had not been confirmed. The Working Group was prepared to provide the Special Rapporteur with any additional information and documentation on cases mentioned in the report. The conclusions of the Working Group, which had been received after the report of the Special Rapporteur had been issued, would be submitted for inclusion in the Special Rapporteur's report to the Commission at its fifty-eighth session.

59. Ms. CARVALHO (Mexico) said that torture, enforced disappearances, extrajudicial executions, lack of freedom of expression, arbitrary detention and, in general, insufficient protection of human rights were some of the reasons that had led the Government of Mexico to establish a democracy based on respect for human rights. The promotion and protection of human rights and the incorporation of those rights into legislation were the main objectives of the State reform process. The Government was currently making efforts to establish structures and programmes that would facilitate human rights protection with the active participation of civil society. Civil society should take part in the preparation of a new national programme for promoting human rights, which would stipulate all the measures to be taken to solve Mexico's major problems in that area. The goal was to strengthen legislation on the protection of human rights, establish a culture of human rights in order to prevent violations, and establish effective mechanisms for punishing those who violated human rights.

60. Mexico intended to bring its legislation into line with international standards, since its current legislation did not enable it to follow up the recommendations formulated by international human rights mechanisms. The Office of the Special Ambassador for Human Rights and Democracy, which had been established by the President of the Republic, was responsible for coordinating the necessary measures to enable Mexico to comply with its international obligations and follow up the recommendations of those mechanisms and the recommendations of treaty bodies. Mexico was determined to strengthen its cooperation with international human rights protection mechanisms, which was demonstrated by the technical cooperation programme that it had concluded with the Office of the United Nations High Commissioner for Human Rights and by the standing invitation that its Minister for Foreign Affairs had extended to officials of those mechanisms. Thus, in 2001, Mexico would receive the Special Rapporteur on the Independence of Judges and Lawyers (May 2001), the Special Rapporteur on Violence against Women and the Special Rapporteur on Human Rights of Migrants. Mexico would closely examine the recommendations made by the special rapporteurs that it hosted, as well as those of the committees that had examined its periodic reports. It would consider better ways of implementing those recommendations with a view to improving the human rights situation.

61. The Government of Mexico recognized the contributions made by the non-governmental organizations that had continually drawn attention to human rights problems, and hoped that it would be able to count on their support in its efforts to ensure the full exercise of those rights.

62. The international community should promote democracy and respect for human rights. While the work of the Commission in that area was particularly important, it was necessary to strengthen the thematic mechanisms and promote the universal ratification of the international human rights instruments.

63. Enforced disappearances were one of the most serious human rights violations and, in order to combat such violations more effectively, an international legal instrument should be adopted that would make that odious practice a crime against humanity. The Commission's establishment of a working group on the subject would be a major step forward.

64. The drafting of an optional protocol to the Convention against Torture was also without a doubt one of the major challenges to be taken up by the international community. Mexico supported the action that had been taken to establish a mechanism to prevent and suppress human rights violations in detention centres. In cooperation with the Group of Latin American and Caribbean States, Mexico had supported the efforts of the Chairperson of the Working Group to draft the best protocol possible, which could provide guidelines for governments which, like the Government of Mexico, were prepared to adopt urgent measures to improve the human rights situation in detention centres.

65. Mexico was characterized by diversity and plurality. All Mexicans were determined to ensure the success of the complex task of promoting and protecting human rights, and they counted on the international community to assist them in their efforts.

66. *Ms. Al-Hajjaji (Libyan Arab Jamahiriya), Vice-Chairperson, took the Chair.*

67. Mr. Eui-yong CHUNG (Republic of Korea) commended the special mechanisms of the Commission on Human Rights—special rapporteurs, special representatives, independent experts and working groups—which, notwithstanding financial difficulties and shortages of staff, had made considerable contributions to the advancement of human rights. In spite of their tireless efforts, the current situation remained grim, and flagrant violations of human rights, such as enforced disappearances, arbitrary detention and torture, continued to be committed in many parts of the world.

68. The Commission's special mechanisms could not act alone. In order to succeed, they must be able to count on the full cooperation of Governments, which was not always forthcoming. Thus, of the 49,500 cases that the Working Group on Enforced or Involuntary Disappearances had transmitted to Governments since its establishment in 1980, some 46,000 cases remained outstanding. The international community should do its utmost to eliminate torture, which was one of the most abhorrent human rights violations. His delegation called on all countries to ratify the Convention against Torture, and it hoped that the Working Group on a draft optional protocol to the Convention would complete its work as soon as possible so that an effective system to prevent torture could be established. The rehabilitation and compensation of victims was of crucial importance. That was why the Republic of Korea would continue to contribute to the United Nations Voluntary Fund for Victims of Torture.

69. In order to prevent human rights violations, it was essential to eradicate impunity. While States were responsible for prosecuting human rights violators, the international community should also make it clear that such violators would not go unpunished. In that regard, the Republic of Korea welcomed the adoption of the Rome Statute of the International Criminal Court, which it was preparing to ratify. His delegation hoped that the Statute would enter into force as soon as possible. The convictions for crimes against humanity recently handed down by the International Criminal Tribunal for the Former Yugoslavia were an important milestone in eradicating impunity. Groups, individuals and non-governmental organizations played a crucial role in the protection of human rights, for example when they brought human rights violations perpetrated in the dark corners of the world into the public spotlight. His delegation welcomed the appointment of the Special Representative on the situation of human rights defenders and hoped that

human rights defenders, whose physical security was often threatened in their work, would be better protected.

70. Since it had come to power in 1998, the Government of Kim Dae-jung had made the promotion of human rights a cornerstone of its domestic and foreign policy. It had made the eradication of human rights violations, such as harsh treatment, one of its priorities. The forthcoming establishment of an independent national human rights commission would help to strengthen the mechanism for protecting human rights in the Republic of Korea. Because the Republic of Korea was convinced that democracy was the only road to economic development and social justice, it had decided to host the Second International Conference of the Community of Democracies in Seoul in October 2002. It hoped that the Conference would be a step towards the full realization of human rights for all people.

71. Mr. BOOETTNER (Observer for Paraguay), speaking on behalf of the countries members of the Common Market of the South (MERCOSUR) and the associated countries Bolivia and Chile, said that 2001 marked the tenth anniversary of the signing by Argentina, Brazil, Paraguay and Uruguay of the Treaty of Asunción, which had established the Common Market of the South. Bolivia and Chile, as associated States, participated on an equal footing with the States members of MERCOSUR in the political coordination mechanism, known as the Political Consultation and Coordination Forum. The countries members of MERCOSUR and the associated countries shared a community of interests, which was based on the defence of democracy, the only political system that ensured respect for human rights and fundamental freedoms, particularly economic, social and cultural rights within the framework of development. The Political Consultation and Coordination Forum had made it possible to put in place a broad spectrum of instruments for promoting cooperation among the six countries concerned in many areas, such as strengthening democracy in the region, coordination of positions in regional political bodies and in the United Nations, and cooperation among consulates for the better protection of nationals of the six countries.

72. On 24 July 1998, the Presidents of the member and associate countries had signed at Ushuaia, Argentina, a protocol to the Treaty of Asunción, known as the Protocol on Democratic Commitment in MERCOSUR, Bolivia and Chile. That international legal instrument was based on the idea that respect for, and the good governance of, democratic institutions were preconditions for the development of MERCOSUR. The Protocol provided for the establishment of a consultation mechanism and the adoption of measures in the event of the collapse of democratic institutions in one of the six countries; those measures went from the suspension of the right of the State party concerned to participate in the work of the various bodies of MERCOSUR to the revocation of its membership. The Protocol, which would apply automatically to new members was of crucial importance for the development and strengthening of the process of regional integration, the viability and credibility of which depended on the domestic political stability of each of the six States parties.

73. The States members of MERCOSUR and Bolivia and Chile were convinced that, without democracy, regional integration and the full enjoyment of human rights by the inhabitants of the region would be impossible.

74. *Mr. Despouy (Argentina), Chairperson, resumed the Chair.*

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD (Agenda item 9) (*continued*) (E/CN.4/2001/31-36, 37 and Corr.1, 38, 39, 40 and Add.1, 41, 42, 43 and Add.1, 44, 45 and Add.1 and Corr.1, 47 and Add.1 and Corr.1, 48, 107, 119, 122, 124, 127-129, 131, 132, 135, 140, 144, 149 and 150; E/CN.4/2001/34-E/CN.4/Sub.2/2001/3 and Add.1-3; E/CN.4/2001/NGO/8, 13, 29, 51, 75, 81, 85-89, 114, 121-124, 129, 136, 153, 156-158, 176, 180 and 183-186; E/CN.4/Sub.2/2000/3; A/55/269; A/C.3/55/5)

75. Mr. VIEIRA DE MELLO (Special Representative of the Secretary-General to East Timor and Head of the United Nations Transitional Administration in East Timor (UNTAET)) said that the establishment of a culture based on human rights in East Timor was a daunting task. It entailed solving the problems of the past in order to ensure that those responsible for human rights violations were brought to justice, concentrating on the present in order to lay the foundations of a society based on the rule of law, and preparing for the future, which meant organizing the first democratic elections, drafting the new nation's constitution and creating strong institutions that would protect the rights of those most vulnerable in the years to come.

76. In order to achieve the first goal, it had been necessary to establish a judicial system and train judges to try all the perpetrators of current crimes and those accused of human rights violations in the past. A special panel had been established within the Dili District Court to prosecute those responsible for serious crimes committed during the 1999 elections. The Special Panel, which was composed of international and East Timorese judges, prosecutors and lawyers had already issued 20 indictments, most of which were for murders committed after the elections. Three persons had been convicted and were currently serving sentences. Two indictments for crimes against humanity had been issued; the hearing of those cases would begin in May 2001. It should nevertheless be noted that only the actual perpetrators of those crimes had been brought to justice. Those who had planned, organized and directed the campaign of violence remained outside the jurisdiction of East Timor. It was therefore very important that the judicial authorities in Jakarta and those in Dili take concerted action to ensure that those individuals were also brought to justice, whether in Indonesia or East Timor. In that regard, he welcomed the proposal by the Indonesian Parliament to establish an ad hoc tribunal to deal with human rights abuses committed in East Timor in 1999. That initial step would be rapidly followed by a presidential decree. UNTAET was cooperating in the process of investigating those violations within the framework of the Memorandum of Understanding regarding Cooperation in Legal, Judicial and Human Rights-related Matters, which had been signed in April 2000 with the Indonesian Minister of Justice.

77. One important issue that had yet to be solved was the plight of 60,000 to 100,000 East Timorese refugees who were still in West Timor and who, according to some reports, continued to be subjected to intimidation by members of the militia and to be denied many of their fundamental rights and freedoms. They were, moreover, a heavy burden on the people and administration of West Timor and on the central Government in Indonesia. However, no acceptable solution to the problem had yet been found, since security conditions in West Timor were still insufficient to allow a resident international presence. In spite of those obstacles, efforts were continuing to be made to promote the return of those refugees who chose to do so. To that end, representatives of UNTAET, UNHCR, the International Organization for Migration and the Indonesian authorities would soon conduct a visit to refugee camps in West Timor to provide information to the inhabitants concerning the current situation in East Timor in order to counter the misinformation that pervaded the camps. The visit would be an important precursor to the refugee registration process scheduled to begin on 1 May.

78. Working closely with the East Timorese leadership and civil society, UNTAET had formulated a proposal on the creation of a commission for reception, truth and reconciliation, which would have the function of inquiring into the human rights violations committed in East Timor over the past 25 years, and establishing a national mechanism that would help to reintegrate refugees who voluntarily confessed to lesser crimes committed in 1999 and who demonstrated remorse and a desire to achieve reconciliation

with their communities by performing community service work. That mechanism would not apply to those guilty of murder or sexual and other serious crimes.

79. The new nation that was being built in accordance with the second goal should have all the structures inherent to a democratic society, including an accountable government, a fair and impartial judiciary, professional and disciplined police and defence forces and a strong civil society. While a new economy was taking shape, the economic and social situation still left much to be desired. Unemployment remained a problem and had contributed to social unrest. It was therefore necessary to create jobs, particularly for the young. In the area of health care and education, it was necessary to address the problem of a severe shortage of trained personnel, such as teachers and doctors, and it would take several years to solve the problem. With regard to the legal profession, the situation was not ideal owing to inadequate resources and the overburdened judiciary. Efforts had been made to limit the length of pre-trial detention.

80. Of particular concern was the continued existence of security structures operating in parallel with the international civilian police. Those groups had been established during the resistance period and had been revitalized in order to counter potential militia attacks. Those parallel structures should disappear as soon as a sufficient number of East Timorese police completed training at the Dili Police Academy. A dynamic process was taking place in East Timor in preparation for the country's first democratic election, which would be held on 30 August 2001. The elections would be for a constituent assembly that would have the task of drafting a constitution for East Timor. UNTAET had decided to give its full support to non-governmental organizations that had taken the initiative to consult the population about the elements to be included in the constitution. As a complement to that process, and to assist the Constituent Assembly in its work, district commissions would be established to disseminate that information. Moreover, the UNTAET Human Rights Unit had undertaken a human rights education programme, which would be strengthened through a technical assistance agreement that had been signed a few days earlier with the Office of the United Nations High Commissioner for Human Rights. Under that agreement, human rights education would be provided to the police and the judiciary and to East Timorese instructors by international experts in each of the 13 districts. Human rights instruments would be translated into Tetum, the language of East Timor, and widely disseminated. The High Commissioner for Human Rights should also help East Timor to prepare to accede to international human rights instruments after it achieved independence in 2002. The process of registering political parties and electors had commenced, and everything would be done to ensure that the first elections were free, fair and peaceful.

81. East Timor was a new nation, which should come to terms with the fact that its territory was no longer under the control of outside forces. East Timor's greatest asset was that it was blessed with a visionary leadership and a people that, in its resistance to occupation and its dignity in the face of extreme violence, had demonstrated time and again that it wished to live in peace and control its own destiny.

Statement in exercise of the right of reply

82. Mr. DUONG CHI DUNG (Viet Nam) said that the delegation of the United States of America was in no position to talk about human rights violations in another country, particularly in Viet Nam, where the United States had conducted the most barbarous war in modern history during which all the fundamental rights of the Vietnamese people had been trampled and millions of people killed. A large part of the Vietnamese population was still suffering from the consequences of that war.

83. His delegation categorically rejected the unfounded allegations made the previous day by the United States delegation concerning the suppression of freedom of religion in Viet Nam. It wished to point out that Father Tadeus Nguyen Van Ly had been disciplined by the Vietnamese Catholic Church for immoral conduct with four women. He had also been recently involved in inciting violence among different groups of the population and causing public disorder and had violated the law on several occasions. The case

therefore did not involve an ordinary religious follower, not to mention a religious leader, as the United States delegation had described him.

84. With regard to the allegation of harassment of religious groups, his delegation wished to point out that the so-called unofficial Hoa Hao Group was composed of only Le Quang Liem, a former lieutenant-colonel in the South Vietnamese army during the war and who had proclaimed himself the leader of the Hoa Hao Buddhist Church, using violence against the followers of the original founder of that movement, the Venerable Huynh Phu So. The so-called "Unified Buddhist Church" was in fact led by a person who had committed criminal offences more than once and had been implicated in the death of a nun who had been found to be six months pregnant. He himself had confessed to his misdeeds. His delegation possessed certified documents that proved that certain "ethnic" groups had smuggled arms into the central highland of Viet Nam with a view to organizing armed revolts and revitalizing the former armed band of Fulro, on instructions from a certain country.

85. His delegation requested that its statement should be duly reflected in the summary records of the meeting.

The meeting rose at 1 p.m.

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COMMISSION ON HUMAN RIGHTS

Fifty-seventh session

SUMMARY RECORD OF THE 40th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 5 April 2001, at 3 p.m.

Chairperson: Mr. DESPOUY (Argentina)

CONTENTS

STATEMENT BY THE DEPUTY MINISTER FOR FOREIGN AFFAIRS OF ITALY

STATEMENT BY THE MINISTER FOR FOREIGN AFFAIRS OF THE NETHERLANDS

CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF:

(a) TORTURE AND DETENTION

(b) DISAPPEARANCES AND SUMMARY EXECUTIONS

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GE.01-12503 (E)

CONTENTS (continued)

(c) FREEDOM OF EXPRESSION

(d) INDEPENDENCE OF THE JUDICIARY, ADMINISTRATION OF JUSTICE, IMPUNITY

(e) RELIGIOUS INTOLERANCE

(f) STATES OF EMERGENCY

(g) CONSCIENTIOUS OBJECTION TO MILITARY SERVICE (continued)

The meeting was called to order at 3.15 p.m.

STATEMENT BY THE DEPUTY MINISTER FOR FOREIGN AFFAIRS OF ITALY

1. Mr. INTINI (Italy) said that the Commission acted as a test bed for the interaction of the world human rights situation and other issues such as poverty, democracy and globalization, which were all key items on the international agenda. The international community was becoming more aware of the fact that the universality and indivisibility of human rights must be matched by a more solidarity-oriented and open approach by the world economy. While globalization had highlighted the interdependence of the markets and the usefulness of the free movement of goods and know-how, it had also revealed the need for new methods and ideas regarding development cooperation, international solidarity and respect for humanitarian principles, which were inseparable from the very essence of democracy and social justice.

2. After endorsing the statement by the Minister for Foreign Affairs of Sweden on behalf of the European Union, he said that, when Italy had taken over the presidency of the Group of 8, it had emphasized the need to give priority at the Genoa Summit to the problems caused by extreme poverty and the need for education, nutrition and health, as well as the issue of migration and its social and economic repercussions, which would have equal status with the problems of security, stability, the monetary economy and similar issues.

3. Recently, however, even the international organizations traditionally more concerned with the management of economic, financial and monetary affairs had realized that the traditional economics-focused approach should be broadened to include a series of humanitarian concerns relating to the developing world. In that context, he paid tribute to the "right to development" exercise, to which the United Nations High Commissioner for Human Rights attached great importance. He also commended the open-ended working group on the right to development for its efforts to bring some order into an issue that had hitherto eluded any attempt at rationalization.

4. The Commission had increasingly proved to be the most appropriate forum for discussing all the issues relating to rights and freedoms in contemporary society and seeking solutions to crisis situations. In that connection, he reaffirmed his Government's moral and political commitment to the Commission and to the Office of the High Commissioner (OHCHR). It had just decided to make a substantial increase in its financial support to OHCHR activities.

5. The forthcoming World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance gave the international community the opportunity to work out appropriate ways of dealing with those phenomena. The younger generation must be educated for a world of tolerance, mutual understanding and appreciation of diversity, in which multi-ethnic, multicultural and multi-faith societies were accepted as enriching life. The experience of the European Regional Conference had produced much food for thought. The most important feature had been the successful participation of representatives of civil society on an equal footing. Indeed, the general conclusions had been drafted with the active cooperation of the participating non-governmental organizations (NGOs) which had submitted amendments of

the utmost importance. A clear sign of the commitment of European Governments to action against racism was the adoption of Protocol No. 12 relating to discrimination to the Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms.

6. One major problem of recent years was illegal immigration. People from Africa, Asia and Latin America driven from their homes by misery and need, war, racial and ethnic persecution, epidemics and drought had arrived in Europe, often exploited by unscrupulous criminal organizations that had created a whole industry based on blackmail, violence, the exploitation of women and child prostitutes, drug trafficking and various forms of slavery. Degrading markets for trade in human organs and the sale of children had been created.

7. The international community was duty-bound to act against such sickening abuses and put into place appropriate preventive and policing measures, both within their national territories and in the framework of regional and international organizations. Cooperation and concerted action must be taken, ranging beyond national borders, so that those who exploited human despair were brought to justice. The High-Level Political Signing Conference for the United Nations Convention against Transnational Organized Crime had started up a swift and timely process aimed at both protecting the rights of migrants and combating the above-mentioned forms of exploitation.

8. Racial discrimination was an ancient evil in Europe and elsewhere. At the World Conference, the international community must carry out a thorough examination of conscience so as to identify the failures to meet the standards enshrined in the international conventions. As for the past, every person had the duty to remember and condemn the whole historical heritage of racism. The phenomena of colonialism and slavery must be studied by the new generations in order to make such aberrations utterly and basically abhorrent. The suffering caused by slavery or deriving from colonialism must always be kept in mind. It was important to ensure that the plan of action that emerged from the World Conference was a useful tool to enhance the system of guarantees against racism, discrimination and xenophobia. That could be achieved only if the financial means for its implementation were found promptly. In that context, he announced that Italy would increase its global contribution to US$ 500,000 for the whole process, in the expectation that full funding would soon be attained.

9. The international scene was unfortunately still characterized by serious "pathologies", such as torture, summary executions and disappearances, for which the people responsible often enjoyed impunity. The international community must furnish itself with appropriate and effective instruments to fight such abuses. It should also make it possible for criminals to be charged with the most atrocious crimes against humanity: genocide, ethnic cleansing and other serious forms of violence. He therefore appealed to Member States to adhere to and ratify the Rome Statute of the International Criminal Court.

10. He reiterated the importance his country, within the European Union, attached to the abolition of capital punishment. He welcomed the growing number of abolitionist countries, the increase in de facto or formal moratoria on executions and the rise in accessions to the Second Optional Protocol to the International Covenant on Civil and Political Rights.

11. He paid tribute to the High Commissioner, whose moral correctness and militant commitment had made her foremost among human rights defenders, and expressed gratitude for her decision to extend her mandate by a further year.

12. One half of the world could not be held completely blameless for human rights abuses while the other half had to stand in the dock. The issues were too delicate for that. The international community had still not faced up to its responsibilities in the face of the most serious human rights violations currently existing: the suffering that arose from hunger, disease and poverty in a large part of the world. Tragedies and conflicts had to be dealt with in terms of their gravity, regardless of the strategic context in which they arose and campaigns for human rights should not be weighed down by a bias in favour of a country's own purposes. In the face of a global economy, a global culture and, unfortunately, a global criminality, the international community should aim at establishing a global policy and governing capability, especially in the field of human rights, going beyond narrow national boundaries. The central goal of the new century, without which human rights and peace were in danger, would be to focus on the search for the new borders of solidarity, as well as the new borders of economy and technology.

STATEMENT BY THE MINISTER FOR FOREIGN AFFAIRS OF THE NETHERLANDS

13. Mr. VAN AARTSEN (Netherlands) said that the Netherlands, like many other countries in the "global village", was multiracial, multicultural and multi-religious. In societies where respect and tolerance prevailed, people from different backgrounds lived in harmony. All too many societies continued, however, to be divided on the basis of political convictions, social class, ethnic background, gender, religious beliefs, economic interests or cultural traditions.

14. On a recent visit to the Former Yugoslav Republic of Macedonia, he had been particularly struck by the destructive effect of intolerance on a society. The international community must use all available means to support the Macedonian people's efforts to promote non-discrimination, especially in the context of the Stability and Association Agreement signed with the European Union.

15. His Government was particularly concerned about the human rights situation in Chechnya, and had urged the Russian authorities to investigate thoroughly all human rights abuses and disappearances.

16. In the Middle East, Israelis and Palestinians must return to the negotiating table. The Palestinian leader should make a public appeal for an end to the violence, and the Israelis should exercise restraint in handling the situation.

17. His Government shared the Indonesian Government's concerns over the violence in the Moluccas, Aceh and Irian Jaya and urged it to address the root causes. The free and peaceful expression of the will of the people must be met by dialogue, not military force.

18. Progress had been made at the international level in combating discrimination against certain vulnerable groups. His Government attached great importance to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and would be working for an action-oriented, forward looking outcome. The human rights of women were

also high on its agenda. The definition of rape and sexual slavery by the International Criminal Tribunal for the Former Yugoslavia as crimes against humanity represented a step forward, as would the early establishment of the International Criminal Court.

19. Given that freedom of expression provided democratic societies with the necessary checks and balances, a free media and free trade in ideas should be encouraged. The Netherlands would be hosting a regional seminar on freedom of religion or belief in June 2001.

20. Constraints on the freedom of opinion and expression persisted. In China, journalists and members of ethnic, religious and belief communities had been given severe prison sentences. In the Islamic Republic of Iran, there was an atmosphere of repression within the media community and people were not free to practise any religion they chose.

21. Companies were increasingly exposed to unfavourable publicity or consumer boycotts if they appeared to profit from human rights violations. The private sector must be called upon to enter into a corporate partnership of shared responsibilities, particularly in the framework of the Secretary-General's Global Compact initiative.

22. Lastly, it was a disgrace that fewer and fewer core human rights functions were being funded from the regular United Nations budget and that some were not funded at all. Furthermore, it was unacceptable that OHCHR received less than 2 per cent of the regular budget. An increase in the allocation for human rights must be approved at the forthcoming session of the General Assembly.

CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF:

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(b) DISAPPEARANCES AND SUMMARY EXECUTIONS

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(f) STATES OF EMERGENCY

(g) CONSCIENTIOUS OBJECTION TO MILITARY SERVICE

(agenda item 11) (continued) (E/CN.4/2001/4, 9 and Add.1 and 2, 10, 11, 14 and Add.1, 58, 59 and Corr.1 and Add.1, 60, 61 63, 64 and Add.1, 65 and Add.1-3, 66 and Add.1, 67, 68, 69 and Add.1, 116, 137 and Corr.1, 138 and 149; E/CN.4/2001/NGO/2, 16, 23, 31, 47, 49, 50, 52, 64-71, 76, 90-94, 98, 99, 101, 110, 115, 116, 132-135, 137 and Corr.1, 138-145, 150, 159, 167, 168, 181 and 182; A/55/178 and 280 and Add.1 and 2; A/RES/55/89)

23. Mr. AKRAM (Pakistan) said that the measures adopted by his Government to promote civil and political rights included a plan to devolve decision-making to the grass roots, enabling the people to participate in decisions affecting their lives. In that process, 30 per cent of elected seats would be reserved for women. Elections had taken place in 38 districts and the process would be completed by 14 August 2001. Next would come provincial and national elections which were to be held by October 2002.

24. In addition to the constraints familiar to all developing countries, Pakistan faced additional, externally imposed problems in delivering human rights, the most important of which derived from its involvement in the struggle of the Afghan people against foreign military action. That war had shattered the Pakistani economy - with a particular social and economic impact on the frontier regions - and had brought, for the first time, a proliferation of guns, drugs and extremism. The country was currently engaged in a heroic effort to overcome those problems and realize its founder's vision of establishing a modern, democratic, Islamic State.

25. As the Coordinator for Afghanistan had stated in February 2001, the Afghan population was poised on the edge of an abyss. Following the years of war and drought, there was a risk of a major humanitarian disaster. In addition to the 1.2 million refugees already in Pakistan, a further 170,000 had left Afghanistan. The burden on Pakistan was therefore very heavy. The response to the United Nations appeal for funds had been weak. When the Secretary-General had visited Pakistan a fortnight previously, it had been agreed that the Pakistani Government would continue to assist the refugees while the United Nations opened camps for displaced persons in Afghanistan. So far, unfortunately, no action had been taken by the United Nations High Commissioner for Refugees (UNHCR) to map out sites and prepare camps.

26. His delegation had been pained and angered by an unsubstantiated assertion by a UNHCR representative that his Government was imposing restrictions in Jalozai camp. There were no such restrictions and it was distressing that, after 20 years of cooperation with UNHCR, his Government should be thus slandered. The only restrictions being imposed were on the registration by UNHCR of new Afghan arrivals: the Government wanted them repatriated, since it could not be expected to bear the cost of their care. If registration had been permitted, it would have acted as a magnet to more refugees. It was therefore imperative that UNCHR and the United Nations itself lived up to its promise to open new camps across the border. It was strange that UNHCR, which devoted only 5 per cent of its resources to Afghan refugees, although they comprised the largest body of refugees in the world, should have the temerity to insult a country that had provided the refugees with hospitality for many years.

27. The Special Rapporteur on Afghanistan had stated that he and the Secretary-General had been unable to gain access to Jalozai Camp. That was extremely misleading. United Nations officials, representatives of the media and others were constantly going to and from the camp. The truth was that the Secretary-General had been advised against going on the grounds of security, whereas the Special Rapporteur had lacked the courtesy to inform the Pakistani Government of his arrival in Islamabad. He had then telephoned requesting an appointment with the Permanent Secretary at the Ministry of Foreign Affairs on a Sunday evening. The Permanent Secretary being unavailable, the Special Rapporteur had not deigned to see his deputy.

28. It was imperative that special rapporteurs should act responsibly and with circumspection, otherwise they eroded the credibility of their work. He asked that his delegation's outrage be conveyed to the United Nations High Commissioner for Human Rights.

29. Mr. NGUYEN QUY BINH (Viet Nam) said that the world had witnessed, on the one hand, ever increasing progress in the promotion and protection of human rights, particularly political and civil rights, and, on the other hand, violence and conflicts that threatened to deprive the peoples of many parts of the world of their basic rights and freedoms. People were still discriminated against on the grounds of race, colour or origin; and racist propaganda was not prohibited everywhere, on the pretext that freedom of expression must be protected. The Palestinian people continued to shed their blood to assert their rights in their homeland. The forthcoming World Conference would offer the opportunity to make real progress in that regard.

30. His Government attached great importance to the promotion and protection of all human rights and fundamental freedoms, which should be given the same attention. The implementation of civil and political rights must go hand in hand with that of economic, social and cultural rights. The realization of the latter would promote the realization of the former.

31. Viet Nam had made significant progress over the past 15 years in strengthening its democratic institutions and improving its legal system. In addition to the enhancement of democratic representative institutions, through elections and the functioning of the National Assembly and the People's Councils at every level, particular importance was attached to the promotion of various direct forms of democracy at the grass-roots level. A government decree of 1999 had stipulated that important issues relating to everyday life and to State affairs should be discussed and monitored by the people as a whole. Such direct forms of democracy, together with the settling of complaints and denunciations, had had the effect of increasing the people's awareness of their rights.

32. His Government had also paid due attention to improving the criminal justice system. The Criminal Code and the Law on Criminal Procedures had been amended to reduce the number of criminal offences, improve the treatment of convicted people, lay down more precisely the responsibilities of the prosecution branch, guarantee due process and avoid instances of arbitrary detention. The Criminal Code, which had come into force in July 2000, had abolished 12 previously punishable criminal offences, while at the same time narrowing the scope of offences against national security. Some - including hijacking, the disclosure of State secrets or classified documents and illegal immigration - had been reduced to the status of regular offences and many criminal punishments had been replaced by the imposition of fines.

33. The number of capital offences had been reduced from 44 to 29, including article 75 on the infringement of national territorial security. Furthermore, capital punishment could no longer be imposed on pregnant women or women caring for children under the age of three. The reforms had been complemented by several mass amnesties covering thousands of convicted people, the latest being on the occasion of the National Day, 2 September 2000, when 10,693 prisoners had been released. A further 10,000 or so had had their sentences reduced.

34. Many regulations had been adopted to promote legal harmony and implement citizens' rights, with particular regard to religious freedom, the equality of all religions, protection of places of worship, publication of religious documents and religious teaching. Christian followers had almost doubled over the past 20 years, while the number of Buddhists had risen to 15 million. Millions of others retained their traditional beliefs. There were currently 14,000 Buddhist pagodas, 6,000 Catholic churches, 500 Protestant churches, 1,000 Cao Dai temples, 89 mosques and thousands of places of popular worship. The number of religious teaching establishments had also increased. In other words, Viet Nam was becoming a country of religious tolerance. The former colonialist Powers had often used religion to foster aggression and destabilization. Those Powers should engage in cooperation with Viet Nam to promote tolerance among the different religions and encourage them to form an integral part of the country's social and cultural life.

35. As for the freedom of the press, before the Law on the Press had come into force in 1992 there had been about 60 newspapers in Viet Nam. There were currently almost 600 newspapers and journals, of which 400 were non-governmental, representing the interests of different economic and social sectors. Such numbers demonstrated the freedom of the press in Viet Nam. Indeed, the press had become a powerful force in protecting the interests of the individual, combating corruption and providing a forum for public debate on various issues.

36. The country's achievements were still modest and only the first steps in the process of ensuring the well-being of the Vietnamese people. Such developments were impossible without the sympathy and support of the international community, from which Viet Nam had benefited and hoped to continue to benefit.

37. Mr. GUILLERMET (Costa Rica) said that his delegation had submitted the first draft of the optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 1980, but it had yet to be adopted despite the urgent need for an effective mechanism to prevent torture. The new proposals put forward in the working group had served to enrich the debate. It was crucial, however, to ensure that States were accorded the primary role in preventing torture, that the NGOs participated in the process, and that the complementarity between national and international mechanisms was assured. After nine years of difficult negotiations, his delegation was not prepared to reduce the initial pretensions of the draft, although it recognized the importance of identifying creative means of achieving consensus. It hoped that the optional protocol, once finalized, would herald a new generation of instruments designed to prevent violations, and not just to note their existence.

38. Mr. GOPINATHAN (India) said that terrorism posed one of the most serious threats to human rights, democracy and free speech. Despite categorical assertions by the international community, terrorist acts were on the increase. States and non-State actors used lofty language to conceal their violent agendas. The pernicious nature of such propaganda was revealed in the attempts of one of India's neighbouring countries to elevate its terrorists to the status of great leaders.

39. There was an urgent need to ensure that non-State actors - particularly terrorist individuals and groups - were made fully accountable. State-sponsored terrorism was, however, quite different in scale, nature and consequences. India had been the victim of some of the most

brutal manifestations of such terrorism in the form of a proxy war aided and abetted from across its borders. No means were apparently too degrading or inhuman when they served political or territorial ambitions.

40. His Government's repeated unilateral gestures to restore peace in the Indian State of Jammu and Kashmir had been met with heightened terrorist violence, particularly against civilians. A certain State's shrill calls for dialogue - which were made for international consumption - went hand in hand, however, with support for terrorist groups. The bodies of Indian soldiers had been returned to Indian territory in a mutilated condition, with evident signs of torture.

41. While his Government had a solemn duty to protect its citizens against wanton terrorist acts, it would continue to abide by the democratic standards of India's Constitution and by international human rights standards. His delegation was anxious to promote a common approach to combat terrorism and called for an early conclusion of a comprehensive international convention to that end.

42. The assessment of the situation in India by the Special Rapporteur on the question of torture, as featured in his report (E/CN.4/2001/66), was entirely based on politically motivated allegations. Incidents of torture, whenever they occurred, were aired and addressed by India's democratic institutions, independent judiciary and thriving civil society. The national human rights commission had ordered the payment of compensation to victims in 98 cases over a three-year period, and had instigated disciplinary proceedings in 143 cases involving erring police officials. His delegation therefore categorically rejected the Special Rapporteur's conclusion that the excesses of Indian police and security forces, "especially if committed in the line of duty", were "tolerated, if not encouraged". Moreover, it was totally inappropriate for the Special Rapporteur to refer to the activities of terrorist groups as "armed resistance".

43. His Government had been responding as quickly as possible to allegations made in the context of the observations of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/2001/68). It was also making concerted efforts to prevent the forcible abduction of its citizens to be trained as terrorists across the border.

44. Mr. ERMAKOV (Russian Federation) said that freedom of religion was one of the most fundamental of all rights. There was little point, however, in denying the fact that some world views or ways of life were not entirely complementary. Ongoing dialogue and cooperation was necessary to ensure their peaceful coexistence, and particular tact was required at all times. One consequence of the artificial merging and dilution of religions was a rise in extreme, "spiritual" movements and sects.

45. In the Russian Federation, where followers of the world's major religions had lived side by side for centuries, there was a great potential for dialogue between the religions. Thus, in tsarist Russia, Muslims had enjoyed the right to live according to the Islamic Sharia. The Russian Inter-Religious Council participated in both national and international activities, and representatives of many of the country's religious communities had recently attended a major inter-faith conference.

46. As in most countries, religious entities in Russia were separate from the State. That did not, however, prevent the development of constructive partnerships for the well-being of society, including with the Government.

47. Russian legislation was not discriminatory in respect of any single religion; rather, it reflected the nation's historical and current specificities. Whereas during the Soviet period, unregistered religious organizations had not been allowed to operate, registration was no longer obligatory. Moreover, the registration deadline had been extended until the end of 2000, and a majority of religious organizations - Russian Orthodox, Protestant, Islamic, Jewish and Buddhist - had registered, primarily in order to acquire the status of legal entities.

48. It was important that neighbouring States - including those in the territory of the former Soviet Union - took account of each other's religious specificities in the consolidation of relations.

49. Lastly, there was recognition in the Russian Parliament and society that questions of freedom of religion and conscientious objection to military service were closely linked, and that the issue required urgent resolution by the legislative.

50. Mr. DEMBRI (Algeria) said that an in-depth review of the methodology used in preparing reports was urgently needed. Some special rapporteurs simply reproduced complaints without first checking the information, thereby transforming allegations into so-called truths. Others made no attempt to analyse the information, and lumped a variety of cases and situations together. That led to different interpretations of the information.

51. As for the report on torture (E/CN.4/2001/66), the cases mentioned in paragraph 22 were already being investigated and would have been investigated even if no complaint had been made. Answers regarding the cases mentioned in paragraphs 25-30 had been provided the previous week.

52. The Working Group on Enforced or Involuntary Disappearances tended to give authorities too little time to conduct the necessary investigations. The latter were further hampered because what little information was provided regarding filiation and address, was very vague. In Algeria, special local committees had been established to deal with complaints of disappearances and they remained involved throughout the process. The Working Group should, as a matter of urgency, review the matter in which it corresponded with States.

53. Regarding the report on extrajudicial, summary or arbitrary executions (E/CN.4/2001/9 and Add.1-2) the case relating to Algeria should not have been included there as it was a case of murder and the perpetrator had been arrested.

54. Regarding the report on freedom of expression (E/CN.4/2001/64) he was surprised that the Special Rapporteur seemed unaware of the fact that in all countries there were independent media and public service media; he saw nothing wrong with the latter, provided that they were not tied to a particular ideology. It seemed as though the Special Rapporteur used different terms for different countries. Surely, no one would dream of referring to State media in relation to the European Union countries. There seemed to be great contempt for the countries of the South.

55. Lastly, he had heard representatives of several States or groups of States ask other States to welcome visits from the special rapporteurs. There was no need for any State to set itself up as a kind of intermediary between the special rapporteurs and another State. The Commission was made of Member States; they should all engage in an interactive dialogue so as to promote respect for human rights

56. Mr. ALFONSO MARTINEZ (Cuba) said that, due to the proliferation of issues that were being dealt with on an annual basis the Commission was having less and less time to digest reports and reconcile opposing viewpoints and its work was therefore becoming more confrontational.

57. Generally speaking, whether because complaints were initiated by NGOs from the North or because of the cultural or political background of the special rapporteurs or members of the working groups, most reports tended to focus on human rights violations in the countries of the South, as exemplified by the reports on arbitrary detention and torture. Moreover, although four of the seven reports contained no criticism of Cuba, and the three others contained lengthy answers provided by his Government to the complaints received, efforts were still being made to condemn his country under agenda item 9. By contrast, although there was considerable information about the way the United States treated its citizens in a number of the areas covered by the same item, it was not criticized. In that connection he cited the reports of the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the question of torture.

58. He was deeply disappointed that the Special Rapporteurs on religious intolerance and on extrajudicial, summary or arbitrary executions had been unable to carry out the tasks entrusted to them in Commission resolution S-5/1 since Israel had denied their request for access to the territories under its control and regretted that the Special Rapporteur on the question of torture and the Working Group on Enforced or Involuntary Disappearances had not had the time or the inclination to try to visit those territories.

59. Turning to the report of the Working Group on Arbitrary Detention (E/CN/4/2001/14), he said that the use of the term "relevant United Nations norms" in the context of recommendation 1 (para. 88 (b)) was unacceptable. Regarding recommendation 2, he pointed out that it was domestic legislation which regulated how and if conscientious objector status was permissible. He reiterated that the second category the Working Group had established to determine whether or not a detention was "arbitrary" was unacceptable.

60. He commended the Special Rapporteur on religious intolerance for his practice of quoting government replies at length and noted that the Special Rapporteur on extrajudicial, summary or arbitrary executions had adequately reflected Cuba's replies. The same was true of the report concerning freedom of expression (E/CN.4/2001/64 and Add.1) although he was disturbed at the number of urgent appeals therein. He concurred with the conclusions in paragraphs 323, 325 and 326. Cuba reserved the right to invite the Special Rapporteur at an appropriate time. It was his understanding that the Special Rapporteur would, at some stage, conduct an in-depth analysis of some conceptual aspects which did not appear to be adequately taken into account for the moment.

61. The report on torture was again excessively long; the explanation regarding the links between racism and torture and between the latter and poverty (E/CN.4/2001/66, paras. 4-11) were useful. He took note of the observations concerning Cuba.

62. Lastly, he agreed with the International Indian Treaty Council regarding the refusal of the outgoing President of the United States to grant execution clemency to Leonard Pelletier.

63. Mr. SHEN Yongxiang (China) said that his Government had been working consistently to promote civil and political rights by enacting legislation in many areas and reforming the legal system to ensure due process. The Constitution guaranteed, inter alia, freedom of speech, association and religious belief. Indeed, the number of followers of various religions was increasing, and religious personalities played a positive role in political consultation and decision-making. Torture was strictly prohibited.

64. Regrettably, the United States was bent on politicizing the Commission's proceedings by making unfounded accusations against other countries while totally ignoring its own disturbing human rights record. That arrogant approach could not but poison the atmosphere and weaken the Commission's role.

65. Mr. BEKE DASSYS (Observer for Côte d'Ivoire) said that his Government deplored the summary executions and other human rights violations that had occurred in the country during the first 10 months of 2000. Since the democratic elections of 26 October 2000, the new Government had been investigating all cases of human rights violations. To demonstrate the new spirit of respect for human rights, on 4 January 2001, it had extended an invitation to the Special Rapporteur on extrajudicial, summary or arbitrary executions - as she had herself noted at an earlier meeting - and, on 15 February, it had provided the information requested by the other special rapporteurs. Accordingly, his delegation had been most disappointed to hear the allegation, in the statement made on behalf of the European Union the previous day, that his country had not responded to the special rapporteurs. The Commission should have been informed, if only orally, that it had provided the information requested.

66. Harassment and extortion had been perpetrated by law-enforcement personnel against all inhabitants, nationals and non-nationals alike. The new Government had taken energetic steps to halt those practices by reducing the number of roadblocks - which were the pretext for such actions - and establishing a special force to police the police. The parallel police force that had existed within the army had been disbanded.

67. Mr. KODAGODA (Observer for Sri Lanka) said that, in order to protect people from human rights violations, it was essential to combat terrorism. The international community was working on a comprehensive convention which would do just that. However, other steps could be taken at the national level. Two factors that directly contributed to sustaining terrorist activity were fund-raising and the procurement of weapons abroad. Any group that terrorized and violated the human rights of people in one country could not and should not be regarded as a friend in another country.

68. With regard to the Commission, persons connected with terrorist groups should not be able to attend sessions of the Commission under the patronage of NGOs, as had happened on several occasions. He urged the Commission to pay serious attention to that practice, which undermined its integrity and credibility.

69. Mr. CHOEPHEL (International Union of Socialist Youth) said that in Tibet under Chinese rule, peaceful expressions and demonstrations against Chinese policies and directives, possession of photographs of the Dalai Lama and the Tibetan national flag, and allegiance to the Tibetan Government in Exile were common grounds for arrest and detention. The Chinese Government contended that the principles enshrined in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights were subject to restrictions imposed by China's domestic legislation.

70. More than 450 known political prisoners were held in prisons in Tibet administered by the Chinese Government; all had been detained on charges of acts of "counterrevolution" or "endangering State security". Tibetans could be arrested for listening to foreign radio stations broadcasting in Tibetan and for compiling a list of political prisoners, since the Chinese authorities regarded such a document as a "State secret". In prison, they were subjected to physical and mental torture, and did not have the right to a fair trial and legal representation.

71. His organization joined the international call for the abolition of the practice of "re-education through labour", on which a workshop had been held in Beijing earlier in the year in cooperation with the OHCHR. At that workshop, the High Commissioner had said that, although the practice had a long history in China, attitudes towards the administration of justice had changed and a serious review of it, leading to its abolition, was justified. She stated that using forced labour as a punishment was contrary to the human rights principles embodied in many international instruments.

72. Mr. ASSAD (Freedom House) said that, according to his organization's annual survey, there were 86 free countries, 59 partly free countries and 47 not free countries at the beginning of 2001. His organization also published a survey that demonstrated how religious freedom was violated in many settings and cultures.

73. The Sudan committed religious persecution on a massive scale, including forced conversion, repression of those who did not subscribe to its version of Islam, and application of its interpretation of Sharia law to the entire population, support for the enslavement of those regarded as opponents of the regime, and the prosecution of a war widely considered "genocidal".

74. The Copts in Egypt, while generally able to practise their religion, were in varying degrees threatened by terrorism from extreme Islamic groups, the abusive practices of local police and security forces, and discriminatory and restrictive government policies. In January 2000, some 21 Coptic Christians had been murdered by Muslim mobs in the village of Al-Kosheh; a year later, the Egyptian Government had acquitted all those charged with the murders.

75. Mr. ZHANG (Freedom House) said that there was escalating religious persecution by the Chinese authorities. Human rights groups reported that more than 50,000 Falun Gong practitioners had been sent to labour camps without trial, and several hundred had been given jail sentences of up to 18 years. Falun Gong practitioners had declared that they would not give up their peaceful resistance until freedom of conscience was respected in China. His organization urged the Commission to be a force for positive change in China and to establish a special rapporteur or a special committee to investigate and put an end to Beijing's brutal persecution of Falun Gong. It also recommended that the Special Rapporteur on religious intolerance should visit, and continue to report on the Sudan, Egypt, Viet Nam, Chechnya and China.

76. Mr. MANTILLA RAMÍREZ (National Union of Jurists of Cuba) said that delegates to municipal assemblies in Cuba met their constituents twice a year. The issues raised by the constituents had to be dealt with, according to the Constitution, within 60 days. Candidates for office were nominated every two and a half years, and elections were by secret ballot. Turnout exceeded 95 per cent.

77. A strong civil society had emerged in Cuba in recent years. Trade unionists were able to defend their rights freely. Women had their rights protected and their place in society secured by the Federation of Cuban Women. Young people were able to have their concerns channelled through the University Student Federation and the Student Federation of Secondary Education. Other groups in Cuban society had similar organizations.

78. Ms. CARCAÑO (Women's International Democratic Federation) said that a number of tendentious statements had been made concerning human rights. Some had defended a fragmented view of human rights which regarded civil and political rights as first-generation rights; economic, social and cultural rights as second-generation rights; and the right to development, peace and a healthy environment as third-generation rights. For her organization all human rights were universal and indivisible and of equal importance. Without the right to life, health and education there could be no civil and political rights. In a hegemonic world, where the unequal laws of neo-liberal globalization took precedence, water, a vital resource for all mankind, was often privatized.

79. Ms. de VÁSQUEZ (Latin American Federation of Associations of Families of Disappeared Detainees (FEDEFAM)) said that, according to the report of the Working Group on Enforced or Involuntary Disappearances, there had been many new cases in the past year in 29 countries. There were a large number of cases - 45,998 - which had not been clarified, although families themselves could provide a much larger number of documented cases. It was essential that the problem be dealt with on an international basis: Asian families of disappeared detainees had had to set up their own federation. It was urgently necessary to protect human beings against enforced disappearances by means of an international convention.

80. The Working Group's report indicated a lack of interest on the part of States which had invited it to pay a visit but without specifying dates. It also revealed that enforced disappearances were not classified as a crime in most States, in contravention of article 4 of the

Declaration on the Protection of All Persons from Enforced Disappearance. Some States used the presumption of death as an explanation of disappearances, and in that regard Argentina had provided an example to follow by passing a law "on absence resulting from enforced disappearance".

81. Bolivia had been condemned by the Inter-American Court of Human Rights over the disappearance of Mr. José Carlos Trujillo Oroza, but the Latin American country that continued to suffer most from enforced disappearances was Colombia, though the situation was also getting worse in Mexico, Guatemala and Honduras.

82. It was the third time that the Commission had before it a draft international convention on the protection of all persons from enforced disappearance. Enforced disappearance was a crime under international law and the international community must eradicate it by creating the international legal instruments contained in the draft convention. There was an urgent need to set up a flexible follow-up mechanism and to appoint an inter-sessional working group to finalize the text of the convention.

83. The Working Group should be strengthened by being given the economic and human resources it needed, especially with regard to communications with family members. The Working Group and the Commission, which remained the hope of thousands of men, women and children suffering as a result of enforced disappearances, had in their hands the possibility of alleviating that suffering.

Statements in exercise of the right of reply

84. Ms. ABOULNAGA (Observer for Egypt), referring to a statement made by the representative of Baha'i International Community, said that her Government had already provided the Special Rapporteur on religious intolerance with information concerning the arrest of a number of members of the Baha'i faith in the Egyptian city of Sohag. The persons arrested had been in possession of documents and leaflets attacking Islam, and not simply religious books. They had been charged with belonging to an outlawed group, possessing documents attacking Egypt's formal religion, Islam, and threatening the stability of the community.

85. Egypt's Constitution provided for respect for the right of belief, and all believers in Egypt were allowed to exercise all their rituals and ceremonies freely. However, the Baha'is constantly attacked Islam and its symbols. Most recently they had issued a statement attacking the Mufti of Egypt. Such acts and activities threatened public order in Egypt; they would not be acceptable in any country. Governments had the obligation and duty to intervene to preserve the collective security and social stability of their citizens, and avoid chaos.

86. The Presidential Decree of 1960 concerning the Baha'i institutions in Egypt had been in conformity with Egyptian law, and the Supreme Court had ruled against an appeal in that regard in March 1975. Her Government had recognized the Baha'i faction as it had originally evolved from within Islam, but since then it had completely deviated from the path of its founder, and currently had the objective of attacking Islam. Its practices encouraged religious extremism and were and would remain unacceptable.

87. The representative of Baha'i International Community had referred to the report of the Special Rapporteur on religious intolerance in a misleading way: in fact, the report included all Egypt's replies and had expressed appreciation for them and for the Egyptian Government's efforts to prevent the politicization of religions and to fight against religious extremism.

88. Turning to the allegations made against Egypt by the representative of Freedom House, an organization whose background and sources of finance were well known, she said he had wilfully omitted to mention that the Prosecutor-General of Egypt had successfully appealed against the court decision in the Al-Kosheh case.

89. Finally, she referred to a situation that had been prevailing in the Commission for several years, namely, that of one individual representing a number of NGOs at one and the same time, thereby abusing the Commission's time, possibly for politically motivated reasons or as a way of earning a living. Her delegation did not consider that the person's interventions were worthy of a reply, but it did believe that it was high time that the Secretariat looked into such practices.

90. Mr. NAHAYO (Observer for Burundi) said that several special rapporteurs had made references to his country. He simply wished to point out that the Government of Burundi had adopted a new code of judicial procedure at the beginning of 2000 which was intended to combat human rights violations. Defence lawyers from abroad were able to appear before Burundi courts and tribunals, law officials were able to travel throughout the country, and an administrative statute had been adopted which was more rewarding for magistrates. Unfortunately, the economic crisis caused by civil war and the embargo had greatly reduced the financial resources available to ensure that those using the new code were able to become familiar with it rapidly. Burundi was in need of continued cooperation to ensure that the promotion and protection of human rights were effective on the ground.

91. Mr. JOOYABAD (Observer for the Islamic Republic of Iran) said that Humanitarian Law Project had referred in a statement to a number of armed opposition groups in his country, including the National Resistance Council. The National Resistance Council was a front for the Mojahedin Khalgh Organization, a terrorist group armed by and based in a neighbouring country. It was regrettable that an NGO should support such a group, which had been directly involved for many years in terrorist activities inside and outside the Islamic Republic of Iran.

92. His delegation was concerned that certain NGOs were still allowed to use the United Nations as a means of supporting terrorist groups and activities. The Commission should not let itself be misused in that way. His Government reserved the right to challenge the presence of two terrorists in the Commission under the umbrella of certain NGOs.

93. As for allegations made by two delegations regarding freedom of religion and expression in his country, he said that, although some cities with populations exceeding 100,000 had no member of parliament, minority religions such as Christianity, Judaism and Zoroastrianism, did have their own members of parliament in the Islamic Republic of Iran. Some 1,442 newspapers and periodicals were published in his country, with a daily circulation of 3 million, which represented a considerable increase on the figure of a few years previously. In 2000, some 30 newspapers had been charged with violating the press code, but none had been closed down permanently.

94. Mr. BENDO (Observer for Albania), referring to a statement by the observer for Greece querying the size of the Greek minority in Albania, said that, according to the most recent official Albanian Government figures based on the 1989 census, the Greek minority in Albania numbered 50,758. That figure could not be questioned by quoting data gathered from unofficial sources or figures concocted abroad. Over the past 70 years, the Greek minority had grown in size at the same rate as the population of Albania as a whole.

The meeting rose at 6.10 p.m.

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Fifty-seventh session

SUMMARY RECORD OF THE 41st MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 5 April 2001, at 6.15 p.m.

Chairperson: Mr. DESPOUY (Argentina)

CONTENTS

CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF:

(a) TORTURE AND DETENTION

(b) DISAPPEARANCES AND SUMMARY EXECUTIONS

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CONTENTS (continued)

(c) FREEDOM OF EXPRESSION

(d) INDEPENDENCE OF THE JUDICIARY, ADMINISTRATION OF JUSTICE, IMPUNITY

(e) RELIGIOUS INTOLERANCE

(f) STATES OF EMERGENCY

(g) CONSCIENTIOUS OBJECTION TO MILITARY SERVICE (continued)

The meeting was called to order at 6.25 p.m.

CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF:

(a) TORTURE AND DETENTION

(b) DISAPPEARANCES AND SUMMARY EXECUTIONS

(c) FREEDOM OF EXPRESSION

(d) INDEPENDENCE OF THE JUDICIARY, ADMINISTRATION OF JUSTICE, IMPUNITY

(e) RELIGIOUS INTOLERANCE

(f) STATES OF EMERGENCY

(g) CONSCIENTIOUS OBJECTION TO MILITARY SERVICE

(agenda item 11) (continued) (E/CN.4/2001/4, 9 and Add.1 and 2, 10, 11, 14 and Add.1, 58, 59 and Corr.1 and Add.1, 60, 61, 63, 64 and Add.1, 65 and Add.1-3, 66 and Add.1, 67, 68, 69 and Add.1, 116, 137 and Corr.1, 138 and 149; E/CN.4/2001/NGO/2, 16, 23, 31, 47, 49, 50, 52, 64-71, 76, 90-94, 98, 99, 101, 110, 115, 116, 132-135, 137 and Corr.1, 138-145, 150, 159, 167, 168, 181 and 182; A/55/178 and 280 and Add.1 and 2; A/RES/55/89)

1. Mr. KHANBIEV (Transnational Radical Party) said that he was one of the doctors who had worked in Grozny under Russian bombardment until resistance had ceased in the town. On 2 February 2000 he had been 1 of 18 medical personnel and 76 wounded people arrested in the locality of Alkhan-Kala. During the night of 2 February they had been taken to a military unit near Tolstoy-Iyurt, where they had been beaten, ill-treated and thrown into a storage room for vegetables, where six of the wounded had died. It was difficult for him to speak of such matters and he would merely say that those had been the most difficult hours of his life: the cruelty and inhumanity towards the defenceless wounded had shocked him deeply. In one of his interrogations, the investigator to whom he had expressed his indignation had replied "You may be a doctor; you might be God, but it does not make any difference. You are a Chechen and we can kill you." During the three weeks he had spent in a "filtration" camp, he had concluded that only a sick mind could invent the types of torture and humiliation practised there. There were currently more than 800 camps and filtration "points" in the Chechen Republic.

2. Mr. ROGOV (Russian Federation), speaking on a point of order, said that the speaker represented a political party and was abusing NGO status. Moreover the terms he was using did not correspond with the internationally recognized territorial status of the parties concerned.

3. The PRESIDENT said that it was established practice that only admitted terminology regarding political status could be used in statements in United Nations bodies. He asked the representative of the Transnational Radical Party to address himself exclusively to matters relating to the agenda item under discussion. On the understanding that that condition would be honoured by the speaker, he invited him to continue his statement.

4. Mr. KHANBIEV (Transnational Radical Party) said that, through the practice of torture in the filtration camps, a mechanism had been established for the destruction of the population of the Republic of Chechnya. In that tragic situation, when independently operating humanitarian organizations had been obliged to cease their activities in the Chechen Republic, when human rights defence mechanisms were paralysed, and the leaders of democratic governments made friendly noises to the Kremlin in exchange for its gas.

5. Mr. ROGOV (Russian Federation), speaking on a point of order, said that in view of the speaker's persistence in using non-diplomatic language and terms incompatible with the territorial integrity of a Member State, it was clearly improper for him to be permitted to continue his statement.

6. The PRESIDENT said that he would invite the next speaker on his list to take the floor.

7. Mr. GUZMAN (International Commission of Jurists) said that the impunity enjoyed by perpetrators of grave violations was a major obstacle to the promotion and protection of basic human rights. The obligation to punish perpetrators was founded on international customary law and had also been affirmed by a number of international bodies, including the Human Rights Committee and the Inter-American Court of Human Rights. Impunity often rested on the granting of amnesties, a device specifically condemned by the Vienna World Conference on Human Rights, and again by the Human Rights Committee. His organization, accordingly, welcomed the decision of the new Peruvian Government, in December 2000, to establish a Truth Commission on violations of human rights and international humanitarian law committed over the two preceding decades. Nevertheless, those violations remained unpunished in consequence of the amnesty laws adopted by the previous Government, which, in the view of his organization, would have to be repealed if the rule of law were to be re-established in Peru. He urged the Commission to resume discussion of the set of Draft Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity.

8. Mr. CHIRI MARQUEZ (Andean Commission of Jurists) said that the situation in Peru was only an extreme case of the general instability of democratic institutions of the region. The weakening of the rule of law in Peru over the preceding eight years had been accompanied by serious violations of civil and political rights. An opportunity to remedy that situation had been opened up by the change of government, but decisive action was required by political and civil society leaders, supported by the international community. After the abuses of the electoral process in 2000 resulting in the re-election of President Fujimori, followed by his fall from power and flight to Japan, an attempt was being made under the transitional government of the President of the Congress, Mr. Valentín Paniagua, to restore the legality of institutions and create conditions for just and transparent elections to be held in April of the current year. The presence and attention of the international community in the political process of Peru had been one of the key aspects of the democratization of the country both before and after the 2000 elections. In the

framework of the negotiations conducted under the aegis of the Organization of American States, judicial reform had been initiated - an essential step towards overcoming corruption and ensuring the independence of the judiciary. Under the Fujimori regime grave violations of civil and political rights had occurred, most notoriously against freedom of expression, political participation and the right to due process, all of which were recognized as fundamental rights by the Universal Declaration. The democratization process in Peru needed the Commission's support to create new monitoring mechanisms and to remedy legislative and institutional deficiencies. In that process the constant vigilance and technical assistance of the international community were essential for the development and stability of the country.

9. His organization was deeply concerned about the defamation charges brought by the Malaysian authorities against the Special Rapporteur on the independence and impartiality of the judiciary, jurors and assessors and the independent of lawyers. He urged those authorities to fulfil their international obligations and scrupulously respect the consultative opinion of the International Court of Justice. The Commission for its part should make clear its full support for the Special Rapporteur.

10. Mr. TEHRANI (Organization for Defending Victims of Violence) said that freedom of opinion and expression was not only an inalienable right but an essential element in creative thinking. Press freedom was also a powerful mechanism in preventing the abuse of power, which was why the restrictions currently imposed in Iran - a country with a "written culture" - were such a serious obstacle to the introduction of necessary reforms. The serial killings of Iranian writers and intellectuals deserved the most forthright condemnation, and the measures so far taken by the Iranian Government were insufficient guarantees against the recurrence of such atrocities in the future. On the other hand, terrorist activities were utterly wrong in themselves and incapable of effecting any improvement in the human rights situation in the country.

11. In the occupied territories, Israeli military courts continued to violate human rights, and extrajudicial killings, or "liquidations" as the Zionists termed them, continued to be a regular feature of the current crisis. There was also evidence of the extensive use of torture during interrogations by the Israelis. His organization called on the Commission to take effective measures to put an end to such flagrant human rights violations.

12. The violation of civil and political rights of Shia Muslims had risen to a deplorable level in Afghanistan, where the Taliban group were engaging in what amounted to ethnic cleansing of Shias, particularly Hazaras, and especially in the Herat province.

13. Mr. ABDULWAHAB (Arab Lawyers Union) said that the horrendous scale of human rights violations being committed by Israel against the unarmed Palestinian people was reflected in the reports of the Human Rights Inquiry Commission (E/CN.4/2001/121) and of the High Commissioner for Human Rights on her visit to the occupied territories (E/CN.4/2001/114), and was daily displayed on television screens and detailed in other media. It was incomprehensible that such violations should enjoy the support of some great Powers in alliance with Israel, which were also obstructing the international community from extending international protection to the Palestinian people. He called for the convening of a special conference of the High Contracting Parties to the Fourth Geneva Convention to consider such violations. Some major Powers were also obstructing the will of international organizations by prolonging the embargo on the Iraqi

people, which had led to the death of one and a half million people and imposed severe deprivations on others. Now that Libya had carried out its commitment regarding the Lockerbie disaster, the time had also come to put an end to the sanctions imposed on the people of that country. Another depressing phenomenon in the sphere of human rights was the relentless prosecution of the war in southern Sudan. There was a profound link between human rights and democracy, full enjoyment of those rights would not be possible without popular participation in all aspects of life, protection of freedom of expression, and establishment of the supremacy of law.

14. Mr. SISSON (International Fellowship of Reconciliation) said that, although much publicity had been given to the persecution of the Falung Gong sect by the Chinese Government, similar anti-religious policies had long been practiced by that Government in Tibet, where 73 per cent of the 451 known political prisoners were members of the clergy, and thousands of others had been expelled from religious institutions for political reasons. It was ironic that, while the Chinese authorities prided themselves on having funded the renovation of certain well known monasteries that served as tourist attractions, the same institutions were being emptied from within by such policies. Seven years after the 1994 visit to China of the Special Rapporteur on religious intolerance (his then title), his report (E/CN.4/1995/91), raising numerous concerns regarding restrictions on the right to freedom of belief in practice in Tibet, still remained valid. In particular, the Special Rapporteur had drawn attention to the denial of the right of those under 18 to receive religious education in violation of article 14 of the Convention on the Rights of the Child, ratified by China in 1992. He had also strongly recommended that members of religious orders imprisoned for "counter-revolutionary acts" should cease to be banned from returning to their monasteries upon release.

15. The "strike hard" Campaign, launched in 1996, ostensibly designed to combat crime and corruption, had in fact been directed against support for Tibetan independence and allegiance to the Dalai Lama. "Work teams" had also been established to impose restrictions on religious institutions, and approximately two thirds of monks and nuns had received "patriotic re-education" by the beginning of 1998. In addition to expulsions and arrests, the Campaign had resulted in the closure of 22 monasteries and convents. Although the Chinese Government denied promoting atheism in Tibet, a senior Government official had, on 15 November 1998, called for "bold propaganda about Marxist atheism", and, on 8 January 1999, a directive had been issued stating that atheism was necessary to promote economic development in the region. His organization called on the Commission to request China to accept a follow-up visit of the Special Rapporteur, including permission to visit the eleventh Panchen Lama, held incommunicado by the Chinese authorities since May 1995; and to consider the adoption of a resolution urging the Chinese Government to respect human rights in Tibet, particularly the right to freedom of expression and religious belief.

16. Mr. SETYANA (Robert F. Kennedy Memorial) said that, although Indonesia had ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the military, police and other Government agencies continued to practise with impunity torture, disappearances, and arbitrary detention against those criticizing the Government. In Aceh, the incidence of such violations had dramatically increased, and, according to the Acehnese Human Rights Organization, there had, from January 2000 until February 2001, been 673 killings, 520 arbitrary arrests, 161 disappearances, and 907 cases of

torture. Similar crimes had been committed in Irian Jaya. His organization urged the Commission: to persuade the Indonesian Government to invite the Special Rapporteur on torture to visit the country; to call for an end to impunity; to persuade the Indonesian Government to reduce its military presence in conflict areas; and to call for the full and immediate implementation of the recommendations of the Working Group on Arbitrary Detention after its 1999 visit.

17. His organization was also greatly concerned about the continuing impunity of human rights abuses in Guatemala, where there had been a systematic failure to implement recommendations of the international community, and where judges, prosecutors, witnesses, lawyers and human rights defenders had themselves become targets of attack. He therefore urged the Commission: to reopen the Office of the High Commissioner of Human Rights in Guatemala; to encourage a return visit by the Special Rapporteur on the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers; and to arrange for a visit in the course of the current year by the Special Rapporteur on the right to freedom of opinion and expression.

18. Mr. MORA SECADE (Centro de Estudios Europeos) said that the persistence of the problem of enforced and involuntary disappearances was noted in the report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/2001/68), which, since its establishment in 1980, had transmitted 49,500 cases to Governments, only 3,500 of which had been clarified. Of the 49 countries in which cases were still pending, 13 were in Latin America. The tardiness of Governments in taking action was often due not to difficulties in establishing the whereabouts of victims but to the continuing impunity prevailing in many countries. There could be no independence of the judiciary or of the administration of justice in countries where violations remained unpunished. Thanks to the efforts of the relatives of victims and those of an increasing number of organizations, there was growing international awareness of the scale and gravity of the crime. He urged members of the Commission to take measures to enhance the protection of rights violated by enforced disappearances. His organization supported the proposal of the Latin American Federation of Associations of Relatives of Detained and Disappeared Persons that the Commission should, at its current session, establish a working group for the study of a draft convention on enforced disappearances, and agree on a timetable for its presentation to Governments.

19. Mr. HOREMAN (Conscience and Peace Tax International) said that the members of his organization were conscientious objectors to military service who also objected to being forced by Governments to pay taxes spent for military purposes. As to the latter point, non-payment of taxes could result in imprisonment, seizure of bank deposits and confiscation of homes - as had been the case with several objectors in the United Kingdom and the United States of America. His organization did not object to paying other taxes, merely those relating to killing people. Recognizing the importance of a link between human rights and human duties, members of his organization welcomed the declaration of the Decade of a Culture of Peace and Non-Violence for the Children of the World. That objective would, however, be an empty phrase if children were taught to be non-violent under Governments that denied them the right to be completely peaceful. The Commission's resolutions on conscientious objection, and its decision to compile

a report of best practices of national legislation were welcome, and it was to be hoped that people determined to be peaceful would eventually be freed from compulsion not only to take part in war but also to pay for war preparations.

20. Ms. De LEEUW (South Asia Human Rights Documentation Centre) said that the Islamic Republic of Pakistan continued, under the military dictatorship of General Musharraf, to offer one of the most glaring examples of religious intolerance. The Blasphemy Laws and the Hudood Ordinances, together with governmental and legal structures, elevated Sunni Islam over all other religious beliefs and sanctioned discrimination against non-Muslims and Shiite Muslims. Section 295 C of the Penal Code imposed the death penalty on anyone defiling the name of the Holy Prophet, even by imputation. The July 2000 order reviving the Islamic provisions of the Constitution further criminalized any persons or group whose beliefs deviated from accepted Muslim orthodoxy. The Hudood Ordinances also criminalized extramarital sex, consumption of alcohol and gambling, and stipulated that a non-Muslim's evidence was inadmissible in cases liable for Koranic punishment. Women had particularly suffered under the Ordinances, being frequently (and wrongfully) charged with sexual misconduct. Both the current regime and its predecessor had ignored the 1995 recommendation of the Special Rapporteur on religious intolerance, advising that the Ordinances should not be applied to non-Muslims.

21. Another area of institutionalized discrimination was the electoral system, under which minorities could only vote for candidates not representing districts or constituencies but whole populations of differing minority groups spread across a wide region. It was clear that, under the current regime, religious intolerance would continue, and that, to judge by the suspension of democratic institutions in 1999 and the introduction of the perversely named National Accountability Bureau Ordinance, the culture of governmental and Sunni Muslim impunity would persist and worsen.

22. Mr. ROSSI (International Association for Religious Freedom) said that history showed that great religions could go through periods of degeneracy and, instead of being instruments of peace, tolerance and fraternity, be used to favour violence, hate, exclusion and death. At such times fanatics had, in the name of their religion, violated the rights of ethnic groups and peoples, despising their cultures and religious traditions. In so doing they were giving a false image of their own religion and defaming it. In its 2000 resolution on the defamation of religions, the Commission had expressed its deep concern that Islam was too often associated with violations of human rights and with terrorism. It had to be clearly stated that the Islam of the Koran and of the Prophet Mohammed was a religion of tolerance and freedom, a religion which respected human dignity. Then why did the media often represent Islam as an intolerant religion? The reason lay in the image of Islam projected by extremists, such as those who spread terror in Algeria and killed old men, women and children, or the Taliban in Afghanistan, who destroyed statues which were part of the common human heritage and conducted an absurd policy against women. The same considerations applied to Saudi Arabia, where women in particular did not enjoy many of the universally recognized human rights, and the religious freedom of non-Muslim migrant workers was flouted. The Commission should endeavour to assist Muslims, the majority of whom were not extremists, to combat fanaticism, to denounce discrimination practised under the cover of Islam, and to free themselves from archaic traditions which were contrary to the true spirit of their religion.

23. Mr. DJAMIN (Third World Movement Against Exploitation of Women) said that deficiencies in the judicial system in conflict areas commonly resulted in impunity for perpetrators of human rights abuses. In Aceh province in Indonesia, for example, of 7,700 cases of gross violation of human rights between 1989 and 1999, none had been brought before a court which met international standards. Government and parliamentary efforts since the fall of Soeharto in 1998 had failed to make the judicial and legislative reforms necessary to break the cycle of impunity, and even Human Rights Law No. 26/2000 adopted by the Peoples' Representative Assembly in November 2000 needed to be amended in order to meet international standards of fair trial. Another illustration of the gravity of the situation in the province was that most of the judges from the 12 district courts had requested transfer to other provinces, partly from fear of working in a conflict area. Where, under national as well as international pressure, cases of gross violation had been brought before the courts, most of the defendants had been only low-ranking officials.

24. In the Molucca islands, despite the declaration of a state of civil emergency in June 2000, the security forces had failed to contain communal violence, largely because they were themselves involved. In spite of continuing efforts to establish a truth and reconciliation process, progress ..as jeopardized by an absence of legal protection and a credible local judicial system. There was a clear and urgent need to accelerate legal and judicial reform, and his organization welcomed the recently agreed technical cooperation between the Office of the High Commissioner for Human Rights and the Indonesian Government to strengthen the administration of justice. Without close consultation with credible NGOs and other members of civil society, however, any international cooperation programme was unlikely to bring justice to the victims of human rights violations and their families. He therefore urged the Commission to assist in exerting pressure on the Indonesian Government to amend Human Rights Law No. 26/2000 to meet international standards, and to invite visits from the appropriate human rights mechanisms to Aceh and the Moluccas.

25. Ms. KARTIKA (Australian Council for Overseas Aid) said that her organization continued to be concerned about the issues of independence of the judiciary, law enforcement and impunity in Indonesia under the Gus Dur-Mega regime. Although Law No. 35/1999 had transferred control over administration, supervision and finance from the Executive to the Supreme Court, the independence of the judiciary had not been ensured, leaving the way open to executive interference. The Government had been irresolute and discriminatory in bringing economic criminals to justice, as demonstrated by the cases of former President Soeharto and his son and other high-profile criminals, all of whom had escaped imprisonment. It had also failed to take vigorous action against human rights violators. Law No. 26/2000 establishing a Human Rights Court was flawed. The authority given to the Lower House of Parliament to determine which cases were to be brought before the Court would enable human rights violators to take advantage of their affiliation to political parties, while the transfer of the authority for judiciary review to the Upper House of Parliament would enable the armed forces and the police to block any amendment. Article 47 of the Law, that provided for the adjudication of human rights violations by the Truth and Reconciliation Commission lacked a precise mechanism and clear criteria to determine which body - the Human Rights Court or the Commission - had jurisdiction. Moreover, placing the emphasis on reconciliation would merely strengthen impunity. Nor was any provision made for compensation, restitution or rehabilitation. Further aggravating the situation was the Government's failure to eliminate the continuing influence of the previous

regime on law enforcement agencies and although the police force was no longer under the direct control of the Armed Forces, the Government had no say in the appointment of its Commander-in-Chief, a decision which remained in the hands of the Lower House of Parliament. The Government was also inconsistent in its approach to the proposed drafts of the Internal Security Act and on National Defence, which were intended to revive the role of the Indonesian armed forces in maintaining law and order without provision being made for precise limitations.

26. She urged the Commission and the Office of the High Commissioner to take action through the appropriate mechanisms to ensure that the Indonesian Government: took the necessary steps to ensure the independence of the judiciary; made the ad hoc Human Rights Court independent of the Lower House of Parliament; prevented those associated with the previous regime from influencing the Attorney-General's office; and ensured that the Police was rid of its inherited military character. The Government should also invite the Special Rapporteur on the independence of the judiciary, law enforcement and impunity to visit Indonesia in order to facilitate the reform process.

27. Mr. HILMAN (Netherlands Organization for International Development Cooperation) said that it was regrettable that enforced or involuntary disappearances had become a grave problem in Asia. NGOs had documented 1,687 cases in the Philippines, 60,060 in Sri Lanka, 3,000 in Kashmir, and 175 in Thailand. In Indonesia they had started during the period of 1965-1968 with the New Order Regime's efforts to destroy the Indonesian Communist Party. They had continued during the 1980s, increasing with the declaration of a military-operation zone in Aceh, further increasing after revocation of the zone's status, and from May 1999 to January 2001, 279 people had disappeared. During the attack on the headquarters of the Indonesian Democratic Party in an attempt to disperse the supporters of Megawati Soekarno Putri, there had been hundreds of victims of the violence of the security forces, and 16 people had been declared disappeared. During the 1997-1998 election period 23 pro-democracy activists had disappeared, nine of whom had returned after having been tortured. Out of the total number of 1,034 cases of disappearances documented by NGOs, only one had resulted in prosecution of the perpetrators. His organization therefore requested the Commission to urge the Indonesian Government: to investigate the cases of disappearances and prosecute perpetrators; to invite the Working Group on Enforced or Involuntary Disappearances to visit the country; and to ratify all human rights instruments protecting people from enforced disappearances. The Commission should also facilitate the drafting of an international instrument on disappearances.

28. Ms. REZEKI WIDIANTI (International Federation of Journalists) said that, although the official repression of the media in Indonesia by the Ministry of Information under the former New Order Regime had ceased, free expression continued to be threatened by Government agencies, the military and the security guards of some political parties, including the Indonesian Democratic Party of Struggle and the President Wahid's PKB party. Journalists had been exposed to violence and intimidation, especially in areas of internal conflict, like the eight who had been summoned to the headquarters of the Banda Aceh for having covered a press conference concerning the rape of five Acehnese women by the police. There had been similar incidents in West Papua, involving mob violence, and in the Moluccas. The investigations into murders of journalists in East Timor in 1999 had not been followed up by prosecution of the

soldiers involved. The underlying factors of many of such acts of violence were links between perpetrators and certain political groups enjoying protection by the military and police, and continuing weakness of the Indonesian legal system. Her organization requested the Commission to urge the Indonesian Government to prosecute those intimidating journalists, and to instruct the police and military to give journalists the maximum protection.

29. Ms. LOPEZ (Colombian Commission of Jurists) said that impunity in cases of human rights violations was widespread because the practice persisted in many States of military tribunals taking over investigations from the civil courts. The report of the Special Rapporteur on the independence of judges and lawyers (E/CN.4/2001/65) had drawn attention to that situation in Colombia, where nearly 100 per cent of human rights violations went unpunished. The struggle against impunity was in fact one of the major challenges facing States attempting to protect human rights. In Colombia a crucial factor in the maintenance of impunity was the failure to apply ruling C-358/1997 of the Constitutional Court, which clearly defined the constitutional limits of military tribunals, but where the tribunals persisted in disputing competence in cases under investigation by the Directorate of Public Prosecutions, particularly when senior officers were involved. The figures showed that in practice transfer to civil courts occurred only in relation to comparatively minor violations or those involving ordinary soldiers or officers of low rank, the single exception being the Nydia Erika Bautista case, in which a high-ranking army officer was involved. Moreover the main provision, relating to civil jurisdiction, in a new military penal code due to come into force in July 2001, had at the last moment been restricted in its application through Government intervention. Her organization requested the Commission to call upon States to take the necessary steps to ensure that perpetrators of human rights violations were brought to trial before civil, independent and impartial tribunals. The Commission should also resume discussion of the set of draft Principles for the Protection and Promotion of Human Rights by Action to Combat Impunity.

30. Ms. YOUNG (Human Rights Advocates) said that her organization urged the Commission to take steps to appoint an independent expert for impunity, as recommended by the Secretary-General in April 2000. Such an expert would be necessary even after the coming into force of the International Criminal Court, since most action against impunity would continue to be taken at the national level. He could prepare an updated version of the set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity, ultimately to be adopted by the Commission, and serve as a focal point for the compilation of guidelines on designing effective anti-impunity measures. He would also be able to contribute to ensuring the observance and implementation of international human rights, focusing initially on civil and political rights, including the right to know, the right to justice, the right to a remedy and the right to reparation.

31. Ms. LE VERGER (France Libertés: Fondation Danielle Mitterand) said that increasingly severe restrictions on fundamental freedoms in Tunisia were resulting in alarming overcrowding in prisons, with between 25,000 and 30,000 prisoners distributed over some 30 prisons. The extent of overcrowding was reflected in the figure of between 4,500 and 6,000 held in Tunis' civil prison, which had an admissions capacity of 1,600. The conditions of detention constituted cruel, inhuman and degrading treatment, examples of which were lack of air, infestation by vermin, permission for only one shower a week, denial of the right to wash clothes and a general lack of hygiene. The consequences were outbreaks of violent behaviour, the principal victims of

which were minors, who were exposed to sexual aggressions which were not only psychologically damaging but carried the risk of AIDS as well. Meagre supplements to prison rations were sometimes available to those detained in prisons close to their families; the rest received only soup served twice a day. In addition, political prisoners were exposed to torture, sexual violence and sensory deprivation, with family visits either limited or forbidden. In these conditions it was frequent for Tunisian prisoners to resort to self-mutilation, hunger strikes or even suicide - consequences of a failure by the authorities to honour their international commitments. She drew attention to a similar concern expressed by the Committee against Torture, and the call made to the Tunisian authorities by the French National Consultative Commission on Human Rights to liberate all political prisoners, put an end to the practice of torture, and break the cycle of impunity. She therefore urged the Commission to take all steps at its disposal to put an end to the almost systematic violation of the rights of prisoners in Tunisia, particularly political prisoners.

32. The situation in Turkish prisons was equally alarming. The practice of torture in Turkey had been repeatedly condemned by the European Court of Human Rights, as had the measures taken against hunger strikers. What must be a matter of grave concern for the Commission was the proposal to transfer prisoners to new prisons with single cells, which would expose them to abuse as well as the psychological torture of solitary confinement. Her organization urgently requested the Commission to take all possible steps to persuade the Turkish Government to abandon its inhuman prison policy.

33. Mr. SAFI (International Islamic Federation of Student Organizations) said that the human rights situation in Indian-occupied Kashmir had deteriorated since the Commission's preceding session. In the course of search operations all the inhabitants of a neighbourhood or village were often assembled for identification by Indian informers, and those pointed out taken away for torture and interrogation, some being shot. In the preceding year more that 950 suspects had been killed. Hundreds of thousands more had been wounded or disabled. Thousands of women had been raped, and thousands of Kashmiris were missing or languishing in Indian detention centres, where torture and the use of force were common interrogation practices. The Indian forces routinely flouted legal safeguards against disappearances by moving detainees between detention facilities, failing to keep records or falsifying them, and refusing to produce detainees even when ordered by a court. He urged the Commission to take serious note of those grave violations and to rescue the Kashmiri people from carnage.

34. Mr. HOVEY (Pax Christi International) said that, despite a series of Commission resolutions urging States to recognize the human right of conscientious objection to military service, the work was far from complete. Objectors were still sometimes regarded as disloyal and cowardly, and subjected to discriminatory treatment, including imprisonment or exile. As the late President John F. Kennedy had once stated, war would exist until the day when the conscientious objector enjoyed the same prestige as the warrior. In recent decades there had been such horrendous developments as the use of landmines and the abuse of children in situations of armed conflict, but there had also been stirring examples of the efficacy of non-violent social action, which often required at least as much motivation, training and discipline as did service in the armed forces. His organization eagerly awaited publication of the report of the Office of the United Nations High Commissioner for Human Rights on the best practices in States with regard to conscientious objection. At the beginning of the International

Decade for a Culture of Peace and Non-Violence for the Children of the World, he urged Member States to give legal recognition to conscientious objectors, and to permit them to serve their communities in alternative ways rather than suffer penalties for their commitment to non-violence.

35. Mr. KIRKYACHARIAN (Movement against Racism and for Friendship among Peoples) said that he had decided that, rather than mention specific cases, he would treat the problem of freedom of expression in the abstract. Some statements by the eighteenth century philosopher Kant were particularly apposite to the question. Emmanual Kant, though always an admirer of the French Revolution, had arrived at the conclusion that the best government was what was termed "enlightened despotism" - which could not remain enlightened unless freedom of expression on all subjects was preserved. It might be objected that the views of an eighteenth century citizen were not relevant to contemporary society, in which the State could make its presence felt in every home through sound and pictures, making censorship in some cases a necessity. It might also be objected that his own organization stood for censorship of racist ideas. The fact was, however, that freedom of expression was an absolute necessity because only what was known could be refuted, and subversive ideas had to be refuted or they would eventually gain ground.

36. Nevertheless, a distinction had to be drawn between on the one hand racist propaganda and incitement to hatred - when censorship was legitimate - and on the other, situations where discussion and exchange of arguments was possible - in which case the imposition of censorship was a mistake. The distinction was a vital one because there was a tendency for States to regard it as a duty of politicians to protect their citizens from lies and prevent them from joining in propaganda hostile to the State. It was for the law to define precisely what was legitimate and what was merely a cloak for crime. Kant had summed the whole problem up in an admirable formula for the guidance of all those who exercised power, a formula which helped to make intelligible the absurdity of seizures of newspapers, withdrawals of passports, disappearances, the refusal to listen to the claims of minorities, imprisonments of members of parliament, of social science research workers - procedures so gross as to be almost burlesque. His formula was that the people should be enabled to be willing to obey - which required free access to knowledge, free expression of opinion and the right and duty to arrive at sound decisions.

37. Ms. SAHUREKA (International Association of Democratic Lawyers) said that, when gross violations of human rights occurred, it was always the voice of the oppressor that spoke most loudly, while the situation of the persecuted was often ignored. That was true of the sufferings of the brave people of the Moluccas. In spite of claims to the contrary, they had been persecuted for more than two years, ousted from their ancestral homes by foreign troops and mercenaries, and exposed to bondage, torture, slaughter and mutilation under the eyes of their loved ones. The forced conversion of thousands of people to Islam had taken place on the islands of Banda, Buru, Bacan, Kesui and Teor, among others, and the islanders had been subjected to such abuses as forced circumcision, genital mutilation, forced marriages, abduction of children and deportation. The so-called reconciliation process was a sham designed to disguise the crimes of the Indonesian troops and their Laskar mercenaries. Her organization called on the Commission to appoint a Special Rapporteur to investigate the crimes against humanity in the Moluccas. She also appealed to it to help to locate and return six missing children, whose names she would make available to the secretariat.

38. Mr. SKURATOVSKYI (Observer for Ukraine), exercising his right of reply, said that there could be no doubt about the importance of a full and transparent investigation into the death of the journalist Heorhiy Gongadze, which was a tragedy both for the man himself and for his family. The law-enforcement agencies of Ukraine welcomed cooperation with outside bodies, including the United States Federal Bureau of Investigation and European institutions in accordance with Parliamentary Assembly Recommendation 1497 (2001) of the Council of Europe. His delegation believed, however, that it would be premature to formulate conclusions relating to the case prior to completion of the investigation and decision of the court.

The meeting rose at 9 p.m.

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Fifty-seventh session

SUMMARY RECORD OF THE 42th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 6 April 2001, at 10 a.m.

Chairperson: Mr. DESPOUY (Argentina)
later: Ms. AL-HAJJAJI (Libyan Arab Jamahiriya)

CONTENTS

STATEMENT BY THE PRIME MINISTER OF THE REPUBLIC OF EQUATORIAL GUINEA

CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF:

(a) TORTURE AND DETENTION
(b) DISAPPEARANCES AND SUMMARY EXECUTIONS
(c) FREEDOM OF EXPRESSION
(d) INDEPENDENCE OF THE JUDICIARY, ADMINISTRATION OF JUSTICE, IMPUNITY
(e) RELIGIOUS INTOLERANCE
(f) STATES OF EMERGENCY
(g) CONSCIENTIOUS OBJECTION TO MILITARY SERVICE (*continued*)

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GE. 01-02525 (E)

ENG

The meeting was called to order at 10.15 a.m.

STATEMENT BY THE PRIME MINISTER OF THE REPUBLIC OF EQUATORIAL GUINEA

1. Mr. MUATETEMA RIVAS (Equatorial Guinea) said that the present occasion was the first time the head of Government of the Republic of Equatorial Guinea had addressed the Commission. After reaffirming his country's support for the cause of human rights—rights which in its opinion should be regarded as having equal importance everywhere—he recalled that Equatorial Guinea had launched itself on the path of democracy in August 1979. The changes introduced in public affairs from that date on had been aimed at establishing a State based on the rule of law and a political culture rooted in multi-party democracy. Reform of the State's constitution had begun in 1992 and the transitional Government had elaborated a legal system ensuring political pluralism. Thirteen political groups had been recognized and their signing of the National Pact with the Government had created a favourable climate for holding legislative and municipal elections, followed by presidential elections in 1996. The ensuing period had seen a strengthening of democracy and human rights. With regard to the latter, several points of progress were to be noted: recognition of the right to presumption of innocence and access to legal assistance, the right not to be detained without an arrest warrant, the right to a fair trial and, finally, the principles of non-retroactivity of sanctions and *non bis in idem*. The President of the Republic, Obiang Nguema Mbasogo, was making sure that those measures were not jeopardized by external provocations and hostilities whose sole aim was to give the international community a false image of Equatorial Guinea.

2. Teaching human rights was an important part of school education in Equatorial Guinea. Those rights were understood in the broader sense to encompass civil rights, such as respect for privacy, freedom of movement, religious freedom and so forth as well as economic rights, such as the right to private property, freedom of enterprise and free competition, and also social rights, such as the right to work and social security and the right to form trade unions and to strike. In general, the financial resources of the country, especially those derived from oil, were contributing to the social welfare of the population. The country's economic and social objectives were defined, moreover, in agreement with all sectors of society, as had been the case at the National Economic Conference held in 1997. Also, with the active participation of the United Nations Development Programme (UNDP), the Government had drawn up a national programme of governance to improve the country's administrative machinery. Implementation of that programme called for the cooperation of the international community. Furthermore, in 2000 a major conference on rural development and food security had been held in Equatorial Guinea with the aim of adopting strategies for the promotion of employment in rural areas and for managing the country's transition from extensive subsistence farming to intensive commercial agriculture.

3. Aware of the impossibility of developing the country without the involvement of women, the Government had drawn up a national policy document based on the promotion of women, who made up 51.2 per cent of the active population. That document was in line with the standards adopted at the major international conferences on women. In practical terms, measures had been taken to strengthen the independence of women in rural areas, particularly by facilitating access to micro-loans, supporting the creation of income-generating activities and developing training. The National Institute for the Promotion of Agriculture and Livestock Farming and the Banking Commission of the Central Bank of Central African States (BEAC) gave special emphasis to micro-loans, as did a project called "Fighting Poverty". Moreover, 90 per cent of cooperatives and agricultural groups in Equatorial Guinea were run by women and it was women who on several occasions had visited neighbouring countries to exchange knowledge about agriculture and livestock farming. Finally, the adult literacy radio programme broadcast in rural areas was mainly intended to reach women.

4. For more than 20 years his country had been under the scrutiny of the international community. The Commission had adopted many resolutions on human rights in Equatorial Guinea, without, however,

following up one of the basic elements of those resolutions, namely the need to furnish technical assistance to the country. The Government had therefore had to rely solely on itself to improve the situation in a country that was completely devastated. Also, the Commission should recognize that creating a democratic culture was a long-term process. For all those reasons Equatorial Guinea asked for a fundamental change in the way it was treated as a Member State of the United Nations and due recognition of the fact that there were no serious or persistent violations of human rights in Equatorial Guinea. The international community should also recognize that the order, peace and stability that reigned in the country were due to the Government's policy of respect for human rights. In that regard, it was crucial that monitoring activities in the area of human rights should be entrusted to officials who were impartial, objective and familiar with the real situation in different countries.

CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF:

(a) TORTURE AND DETENTION
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(e) RELIGIOUS INTOLERANCE
(f) STATES OF EMERGENCY
(g) CONSCIENTIOUS OBJECTION TO MILITARY SERVICE (agenda item 11) (*continued*)

(E/CN.4/2001/4, 9 and Corr.1 and Add.1 and 2, 10, 11, 14 and Add.1, 58, 59 and Corr.1 and Add.1, 60, 61, 63, 64 and Add.1, 65 and Add.1-3, 66 and Add.1, 67, 68, 69 and Add.1, 116, 137 and Corr.1, 138 and 149; E/CN.4/2001/NGO/2, 16, 23, 31, 47, 49, 50, 52, 64-71, 76, 90-94, 98, 99, 101, 110, 115, 116, 132-135, 137 and Corr.1, 138-145, 150, 159, 167, 168, 181, 182; A/55/178 and 280 and Add.1 and 2; A/RES/55/89)

5. Mr. BEN MARZOUK (Organisation tunisienne des jeunes médecins sans frontières) said that the organization he represented was trying to promote a culture of human rights and was working to make dialogue possible between individuals of different opinions and to strengthen the role played by the "valued partners of the United Nations", namely civil society organizations.

6. True pluralism was based on freedom of opinion and expression, especially freedom of the press. Any State that supported moral values and protected human rights could, by so doing, frustrate the manoeuvres of anti-social forces within the community and contribute to creating a climate of openness conducive to the exercise of freedom of opinion, expression and information, and to the strengthening of democracy, impartiality and independence of the judiciary.

7. In order to play the key role that was theirs, the non-governmental organizations (NGOs) needed to remain objective and credible. That was why his organization was appalled every time it heard the well-worn rhetoric of certain NGOs, always the same ones, inveterate professional speechifiers. Their arrogance would not prevent Tunisia from keeping human rights at the heart of its sustainable development policy. For its part, his organization considered itself a fully-fledged partner and was working in a positive spirit so that all Tunisian citizens could fully exercise their human rights in their everyday lives.

8. Finally he condemned the serious violations of the rights of innocent Palestinian civilians committed by the Israeli forces.

9. Mr. RAMAZZONI (Commission of the Churches on International Affairs of the World Council of Churches) said that since the beginning of 2001 the number of threats, acts of harassment, even of

assaults ending in death, suffered by members of the legal profession had considerably increased in Guatemala. In just two months one judge had been lynched, the President of the Constitutional Court and the judge assigned to the Gerardi case had been victims of armed attacks and six judges had received threats. Evidently, those acts were designed to challenge the independence of the judges, impede the course of justice and allow impunity to hold sway.

10. The Government lacked the political will needed to alleviate the situation. It had implemented only two of the thirty-two recommendations made by the Special Rapporteur on the Independence of Judges and Lawyers in the report he had submitted at the preceding session of the Commission. Furthermore, in Guatemala the police often clamped down on human rights organizations, threatening and harassing them, conducting illegal searches and stealing their documents. Freedom of opinion, expression and information was also threatened. During the previous weeks, six journalists had been threatened and assaulted.

11. The Commission of the Churches on International Affairs of the World Council of Churches was asking for the bureau of the High Commissioner on Human Rights in Guatemala to be reopened, so that it could help to restore a climate conducive to human rights. Also, the Special Rapporteur on the Independence of Judges and Lawyers should go to Guatemala again to see on site whether his recommendations had been applied. It would be appropriate, moreover, for the Special Representative of the Secretary-General on Human Rights Defenders and the Special Rapporteur of the Commission on Human Rights on the promotion and protection of the right to freedom of opinion and expression to examine the situation of human rights defenders and independent journalists in Guatemala.

12. Mrs. WONG (Rural Reconstruction Nepal) said that in Bhutan the freedom of speech, of expression, of opinion, of assembly and association, as well as freedom of the press and the right to a fair trial, were systematically flouted by the State. Judges were nominated by the king and served at his whim. As for political parties and NGOs, they were banned. Hundreds of political prisoners were languishing in jail.

13. Rural Reconstruction Nepal demanded the immediate release of Rongthong Kuenley Dorji, President of the Druk National Congress, and asked the Commission to send a fact-finding mission to Bhutan, as a matter of urgency.

14. In Malaysia the right of peaceful assembly was seriously threatened. Many times the police had dispersed people who had been demonstrating peacefully. That had been the case in February 2001, in the States of Kedah and Selangor, as well as in Kuala Lumpur. Ordinary demonstrators or members of opposition parties were often arrested during those demonstrations. Just recently four people had been arrested in Kuala Lumpur for wearing T-shirts bearing a picture of Aung San Suu Kyi, winner of the Nobel Peace Prize.

15. The few independent press organs were also targets of those in power. Thus the Prime Minister had called the members of the independent press agency Malaysiakini.com "traitors". The previous year the Government had ordered the withdrawal of several publications and magazines, notably Eksklusif, Detik and Al-Wasilah. The chief editor of the semi-weekly Harakah was currently on trial for opening his columns to a leader of the opposition .

16. Rural Reconstruction Nepal urgently appealed to the Commission, on the one hand, to ensure implementation of the recommendations concerning Malaysia formulated by the Special Rapporteur of the Commission on Human Rights on the promotion and protection of the right to freedom of opinion and expression and, on the other, to invite the Special Rapporteur to visit Malaysia with the aim of improving the current situation.

17. Mr. DELIUS (Society of Threatened Peoples) said that in the Indonesian province of Irian Jaya the repression of the Papuans had intensified disturbingly: arbitrary arrests, unjust trials and torture of those detained had become common events. Many separatist Papuans, in particular the head of the separatist movement Theys Eluay, had been condemned to prison sentences handed down in trials where the rights of the defence were not respected. Furthermore, many of them were being tortured in prison by members of the Mobile Police Brigade (BRIMOB). At the same time, the Indonesian security forces were continuing to carry out extrajudicial executions and other crimes with complete impunity, making it even more difficult for dialogue to begin between the Indonesian Government and representatives of civil society in Papua. The Society of Threatened Peoples asked the Commission to invite a Special Rapporteur to visit Irian Jaya to investigate the situation. It also appealed to the Commission to call on the Indonesian Government to put an immediate end to the persecution of suspected members of the separatist movement and to resume a genuine dialogue with the representatives of Papuan civil society.

18. Mr. CASTRO SAEZ (Organization of Solidarity of the Peoples of Asia, Africa and Latin America—OSPAAAL) said that the developed countries that set themselves up as judges of third world countries in relation to human rights issues were themselves perpetrators of serious and systematic violations of those rights. The Government of the United States of America, for example, had long tried to hide from the international community the existence of more than a hundred political prisoners and prisoners of war jailed for having fought against the injustice of the North American political and socio-economic system. Arrested within the framework of the COINTELPRO programme of the FBI, those persons had been imprisoned, isolated and tortured.

19. The Government of the United States of America was trying to pass off political prisoners as ordinary detainees under the common law: that was the case with Leonard Peltier, for example, and Mumia Abu Jamal. The United States counted 476 prisoners per 100,000 inhabitants, five times more than twenty years previously. Within the Black community the proportion was 3,620 prisoners per 100,000 people. The population of the federal prisons had increased by 83 per cent during the past eight years. Many of the prisoners were minors, mentally handicapped persons or women from the poorest sections of society. All those facts showed the racist and discriminatory character of the North American judicial and prison system.

20. OSPAAAL assured the political prisoners and the prisoners of war held by the United States of its solidarity and demanded their release.

21. Ms. FINIK (Human Rights Internet—HRI) said that the Human Rights Internet was an international network of information and documentation on human rights. It was governed by a Board of Directors, one of whose members was Ms. Khedija Cherif. That Tunisian sociologist was a founding member of the National Council for Liberties in Tunisia (NCLT), a leading member of the Tunisian Association of Democratic Women (ATFD) and former Vice-President of the Tunisian League for the Defence of Human Rights (LTHD).

22. On 23 and 24 March 2001 the Board of Directors of HRI had had to hold its annual assembly without Ms. Cherif, who had not been able to leave Tunisia. In fact, she had not been granted a renewal of her passport, requested two months earlier, whereas the procedure normally took two weeks. The reason for that "administrative" hindrance became perfectly clear when it emerged that three weeks previously, while on her way to a reception organized by CNLT, she had been showered with abuse and beaten by the police. Nine days later she had been struck by a policeman again when leaving the Palace of Justice, where she had gone to express her solidarity with Mr. Mokhtar Trifi, who was being questioned that day by the investigating magistrate in his capacity as President of LTDH. Ms. Cherif had then called on the Procurator of the Republic to lodge a complaint about the assault, but her complaint was rejected by the Procurator.

23. Such assaults were part of the Tunisian authorities' strategy to silence the independent organizations and all who wanted to see Tunisian laws and the commitments made by the Tunisian State to the international community respected. The Human Rights Internet would shortly be submitting a complete report to Ms. Jilani, Special Representative on human rights defenders in Tunisia. It should be recalled that on 8 March 1999, at the General Assembly of the United Nations in New York, Tunisia had voted for the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (A/RES/53/144). Nevertheless, since that date, the repression of human rights defenders had not diminished. That being so, the Human Rights Internet was asking the Commission to invite the Special Representative, Ms. Jilani, to go to Tunisia to investigate the situation of human rights defenders in that country.

24. Mr. CASTILLO (Indian Council of South America) said that Mr. Peltier, a defender of indigenous peoples, had been held in an American prison for 25 years for a crime he had not committed. He had, moreover, been illegally extradited from Canada in 1976, in violation of international law. During his trial the rights of the defence had not been respected. The judge had systematically refused to listen to the defence witnesses. The FBI had suppressed evidence of Mr. Peltier's innocence and put pressure on people to give false testimony. More recently, the FBI had launched an intensive disinformation campaign in the media and among key public officials so that President Clinton would not grant Mr. Peltier a pardon. That campaign had been successful, since the President, without explanation, had ultimately refused the pardon even though the White House had announced that Mr. Peltier's request for clemency would be studied carefully.

25. Léonard Peltier had asked the Indian Council of South America to express his deep appreciation to the High Commissioner for Human Rights, to Mr. Alfonso Martinez, to Mr. Kenneth Deer and to Ms. Rigoberta Menchu Tum for their support. Prominent American personalities and the European Parliament had called for an inquiry into the irregularities of Mr. Peltier's trial. Amnesty International, for its part, considered him a political prisoner who should be released immediately and unconditionally.

26. The Indian Council of South America called on the Commission to invite the Special Rapporteur on Contemporary Forms of Racism, the Special Rapporteur on the Independence of Judges and Lawyers and the Working Group on Arbitrary Detention to visit the United States to examine the question of racial discrimination in the administration of justice and to look into Léonard Peltier's case and those of other political prisoners. It also asked the Commission to invite the United States Government to make public the 6,000-page document on the Peltier case held by the FBI and to open an inquiry about the irregularities that had marred the Peltier trial.

27. Ms. BARNES DE CARLOTTO (International Movement for Fraternal Union among Races and Peoples) said she was President of the Association of the Grandmothers of May Square in Argentina and for that reason had come, as every year, to speak about the forced disappearances that had occurred in Argentina between 1976 and 1983 under the most ferocious dictatorship the country had ever experienced.

28. Given the corporate reflexes of the new leaders of the armed forces and their tendency to question the process of self-criticism which had already begun, the decision of the federal judge in the Grandmothers of May Square affair to declare the laws on the duty to obey unconstitutional was a step to be welcomed. Those laws could only serve to encourage impunity and prevent the truth from surfacing, especially about the appropriation of the children of persons who had disappeared during the dictatorship.

29. In that connection, the Grandmothers of May Square, in the year 2000, had identified six further grandchildren, to whom a hundred or so young people should be added who, unsure of their origins, had

come to the Association's headquarters to compare their blood with that of grandparents looking for their grandchildren.

30. The Association of the Grandmothers of May Square called on the Government of Argentina to respond to the Argentine people's need for truth and justice by making the political decision to judge and condemn those responsible for the thousands of disappearances and force them to reveal where the grandchildren were whom their grandmothers wanted to hug before they died.

31. In conclusion, she supported without reservation the drafting and adoption of an international convention against forced disappearances.

32. Ms. AL TABAL (North-South XXI) said that Israel was refusing to comply with the Convention against torture that it had nonetheless ratified. In fact, Shin Beth regularly tortured Arab prisoners, with the endorsement of the Supreme Court, moreover, which had not forbidden such practices. More than that, Israeli doctors were collaborating with the Shin Beth torturers in the detention centres, thus violating the Hippocratic oath. Israel was also violating the Geneva Conventions by imposing collective sanctions as measures of retaliation. North-South XXI called for an international criminal tribunal to be set up to judge the crimes committed by the Israeli authorities and to force them to pay compensation to the victims. Also, the Commission should call on Israel to put an end to the practice of torture and to all forms of collective sanctions.

33. North-South XXI welcomed the substantial changes that had taken place in Bahrain: the release of all political prisoners, the return of people who had gone into exile for political reasons and had now regained their civil rights, the establishment of political equality between men and women and of respect for freedom of assembly and expression, the abolition of the law on state security and the elimination of the state security court that had arbitrarily imprisoned thousands of political opponents over a quarter of a century.

34. The Emir and the people of Bahrain were to be congratulated on those measures and encouraged to go further by applying the Charter for National Action, which provided among other things for implementation of the Constitution, by ratifying the main instruments relative to human rights, guaranteeing freedom of expression and the right to form trade unions, abolishing all forms of discrimination and organizing legislative elections as soon as possible.

35. Mr. VO VAN AI (International Federation of Human Rights Leagues—FIDH) expressed the Federation's great satisfaction at the positive changes in Mexico, Peru and Bahrain. FIDH called on the Governments of those countries to continue to honour their commitments in the area of human rights. As to the fight against impunity, FIDH welcomed the efforts of the international community to establish a permanent international criminal court, as well as the progress that was being made in that direction, notably the recent arrest of Mr. Milošević, who would have to face charges of war crimes and crimes against humanity at the tribunal in The Hague.

36. On the other hand, FIDH deplored the shocking and particularly retrograde decision of the Court of Appeal in Senegal to declare itself incompetent to prosecute the former Chad dictator Hissène Habré on the grounds that the Convention against torture had not been incorporated into Senegalese law.

37. In Cameroon the facts about the extortions of the Douala operational commander had still not come to light. FIDH asked the Commission to support the establishment of an independent commission of inquiry that would be open and efficient in dealing with the extremely worrying situation in Cameroon.

38. FIDH and its affiliated organization SOLIDA drew attention to the 17,000 people who had disappeared during the war in Lebanon. The families of those persons were waiting for an answer about what had happened to their relatives and placed their hopes in the Commission.

39. FIDH and its affiliated organization the Legal and Human Rights Centre deplored the violations committed by the Tanzanian police in January 2001 during the demonstrations that had followed the elections in Zanzibar. No steps had been taken by the Tanzanian authorities to prosecute the perpetrators.

40. FIDH and its affiliated organization the Viet Nam Committee on Human Rights regretted the continuing religious persecutions in Viet Nam, persecutions which the party in power was even trying to legalize. FIDH asked the Commission to order the Vietnamese Government to respect freedom of conscience and of religion.

41. FIDH and its affiliated organization in Northern Ireland, the Committee for the Administration of Justice (CAJ), remained concerned by the fact that some parts of the legal and security arrangements that had allowed violations of human rights in the past were still in place. FIDH and CAJ called on the British Government to hold independent judicial inquiries into the assassinations of Rosemarie Nelson and Patrick Finucane. Lastly, the FIDH asked the Commission on Human Rights to create an intersessional normative working group with the aim of adopting the draft international convention for the protection of all people against forced disappearances.

42. *Ms. NAJAT AL-HAJJAJI (Libyan Arab Jamahiriya) took the Chair.*

43. Ms. STOTHARD (Aliran Kesedaran Negara—National Consciousness Movement) said that Burma held the sad record of having the oldest political prisoner in the world: the doctor Saw Mra Aung, former member of Parliament and President of the Arakan League for Democracy, who would turn 93 during the present meetings of the Commission on Human Rights. Dr. Saw had been held without charges since 1998 in a military camp not far from Rangoon.

44. The Burmese regime also held other records, such as the aggregate number of political prisoners held: hundreds, in fact, who were often kept in prison after they had served their sentences. That was the case of Min Ko Naing, who should have been released two years back and who was not only still in prison but was actually being held in conditions such that he risked being handicapped for life.

45. The Commission should do its utmost to secure the release of all political prisoners in Burma and make the Government recognize the civil and political rights of Burmese citizens. At a time when the country was preparing to celebrate the Buddhist New Year, when it was a tradition to set birds and fish free, the Burmese regime would gain even more merit by releasing human beings.

46. Ms. MAGOMADOVA (International Peace Bureau) called the atrocities committed in Chechnya war crimes and crimes against humanity. In the course of the past 18 months Chechnya had become a shooting ground where the military and the police tried out new weapons and new methods of mass destruction against people and their environment. The victims were mainly children, women and the elderly. The absence of local power structures and of international organizations in the area led to a state of isolation that reinforced impunity.

47. Yet Russia, a full member of the Council of Europe, was bound to honour the commitments it had undertaken to safeguard human rights and freedoms. In fact it had not met any of those commitments, and it was regrettable in those circumstances that a fair number of politicians should be satisfied with the declarations of the Russian Government.

48. The military forces responded with terror to the attacks of the Chechen fighters. In Chechnya an estimated 1,500 people had disappeared, most of them men. Those thrown into prison without charge were sometimes found again, weeks or months later, in common graves with signs of torture on their bodies. Civilians who had been arrested were placed in holes dug in the ground. None of those innumerable violations had given rise to an inquiry. The guilty parties had never been obliged to account for their acts.

49. The International Peace Bureau was grateful to the Commission on Human Rights for having adopted a firm resolution the previous year on the situation in the Chechen Republic. Unfortunately, the Russians had not followed up any of the injunctions listed in that resolution. That was why the International Peace Bureau was now calling on the Commission to set up an independent international commission immediately with the mission of investigating the crimes committed by the Russian army in Chechnya.

50. Mr. KAZMI (Al-Khoei Foundation) denounced the religious intolerance suffered by certain groups in several countries.

51. The Al-Khoei Foundation fully acknowledged the disastrous consequences of the sanctions imposed on Iraq, which not only harmed the Iraqi population, but also reinforced the Government's hold on the population. Yet, at a time when many people were justifiably declaring their opposition to the sanctions regime, it was important to denounce the abuses suffered in Iraq by large groups, such as the Kurds and the Shi'ites. The latter, in particular, were victims of serious persecution aimed at reducing their influence, mainly at the political level. The Baath regime objected to the very symbol of Shi'ite Islam and to the representatives of that community. Many religious Shi'ites had been murdered or had disappeared since the Baath party had come to power. Those abuses had, moreover been denounced by the Special Rapporteur on the human rights situation in Iraq. At present, the Al-Khoei Foundation was worried about the fate of Ayatollah Seestani, whose freedom of movement and religious functions the regime wanted to restrict.

52. The Al-Khoei Foundation saw the new measures taken by Emir Al-Khalifa in Bahrain, in particular the release of political prisoners, the return of exiles and the abolition of the state security court, as a sign that the reforms taking place would put an end to the long discrimination suffered by the Islamic opposition in the country.

53. In Afghanistan, the actions of the Taliban, in particular the destruction of the Buddhist statues in Bamiyan, could only strengthen the incomprehension and fear of Islam felt by non-Muslims. The religious intolerance shown by the Taliban was also seen in the persecution of the Hazara minority.

54. Lastly, the Al-Khoei Foundation was very concerned about the way the Israeli authorities were treating the Muslim holy sites and the faithful themselves, especially in East Jerusalem. The Al-Aqsa mosque was sacred to Muslims the world over. The security of the site and of the Muslims who prayed there was therefore a matter of serious concern to all Muslims and should be recognized as a distinctive aspect of the conflict in Palestine.

55. Ms. THIN THIN AUNG (Catholic Institute for International Relations) denounced the torture practised by the regime in Burma, a regime that ferociously suppressed political activists, members of ethnic groups and students fighting for democracy. Torture had become a veritable institution in that country. Moreover, it had been denounced by international organizations such as Amnesty International and by Burmese human rights organizations. Apart from torture, the political prisoners were subjected to all sorts of deprivations, such as inadequate nourishment and medical facilities, so that many of them became ill. A case in point was that of Min Ko Naing, a leader of student organizations who, in 1989, had been

condemned to twenty years in prison for his pacifist activities in favour of democracy and human rights and was currently being detained in the Sittwe prison in the State of Rhakine, where his health was deteriorating from day to day. Min Ko Naing risked being paralysed for life if he were not given immediate care. Another case was that of U Tin Htun, whose state of health also gave rise to grave concern and who was not receiving medical care either. U Tin Htun was currently serving a twenty-year prison sentence.

56. The Catholic Institute for International Relations called upon the Commission on Human Rights to take urgent steps to secure the release of all political prisoners in Burma and put an end to all human rights violations committed in that country.

57. Mr. MUSTI KHAN (World Federation of Trade Unions) expressed appreciation of the efforts made by the Commission to protect the rights of oppressed peoples but regretted the fact that the people of Baluchistan, for whom he was acting as spokesperson, had not received the attention they deserved. In fact, the people of Baluchistan, an area that Pakistan had annexed illegally and turned into its south-western province, were victims of many forms of discrimination from the Punjabi lobby in power.

58. Following the violent acts committed during military operations in the past, many political activists of Baluchistan had been arrested and tortured. In particular, Mr. Abdul Nabi Bangulzai and Alam Parkani had been detained and held without trial for several months and had been tortured in the camps. He (Mr. Musti Khan) himself had been forced to flee the country and was now asking for political asylum in the West. Moreover, the pillage of natural resources in Baluchistan over half a century had caused drought, famine and poverty. The daily depredations, of the coastguards, the armed forces and the Pakistani militia were making life unbearable for civilians. The situation held no prospect of improvement, given that the military went so far as to put pressure on lawyers to refuse defence support to opponents of the regime. Thus, State terrorism was intensifying. Furthermore, while the population was being denied the right to live, the land was being used for nuclear tests and groundwater reserves were becoming radioactive. Abusing nature in that way jeopardized the opportunities of future generations. In its resolutions of the previous year, the Commission on Human Rights of Pakistan referred to Baluchistan, expressing its concern about the deterioration of the administration of justice, the sagging level of teaching, the increase in unemployment, the physical cruelty suffered by children, the corruption and the existence of private prisons. It had condemned the murder of judge Mohammed Nawaz Marri and criticized the police for not really having tried to bring the perpetrators to justice. Worse still, the nationalist leader Khair Bakhsh Marri had been wrongly implicated in the affair, imprisoned, humiliated and harassed.

59. The Commission on Human Rights of Pakistan had also drawn attention to the abuses committed against children, who were victims of kidnapping and were then traded to countries in the Gulf. It had called for the closure of the training camps installed by the military organizations in the province. Those organizations, which had been established with the direct support of the security forces, went to fetch children from their schools and homes to enlist them in the jihad operations they were carrying out in Afghanistan, Kashmir, Sinkiang and Chechnya. Those operations no doubt represented a large financial interest for certain very powerful pressure groups. What people were witnessing, therefore, was a real "Talibanization" of Baluchistan, a very dangerous phenomenon, not only for local society but for the world at large. The Commission's appeals to the Government to rectify the situation had so far remained without effect. Quite the contrary, the regime seemed more determined than ever to keep a tight grip on Baluchistan.

60. The World Federation of Trade Unions asked the Commission to invite competent working groups to investigate the political, economic and social situation of the people of Baluchistan.

61. Ms. BHUTIA (Worldview International Foundation) said that once again, as in previous years, several Special Rapporteurs and working groups were speaking of the violations of civil and political rights committed by the Chinese authorities. Thus, the Working Group on Arbitrary Detention, in its opinions Nos. 8, 14, 19 and 28 (document E/CN.4/2001/14/Add.1), regarded the detention of five Tibetan political prisoners as being arbitrary and contrary to the articles 19 and 20 of the Universal Declaration of Human Rights. Referring to the case of Ngawang Sangdrol, a Tibetan nun who was currently serving a 21-year prison sentence for her participation in pacifist political activities and whose health was very poor, Ms. Bhutia called on the Chinese authorities to release her on humanitarian grounds and to allow her to receive the medical treatment without which she would not be able to survive.

62. The situation of Gedhun Choekyi Nyima, the eleventh Panchen Lama of Tibet, had been mentioned at meetings of the Commission for the past six years. The eleven-year-old boy in question was at present the youngest political prisoner in the world, and Tibetans and Buddhists all over the world continued to wonder what had happened to him. The Working Group on Forced or Involuntary Disappearances had sent many messages to the Chinese authorities inquiring about the boy, but the authorities, acting in defiance of the international community, were still refusing to reveal his whereabouts. Ms. Bhutia asked the Chinese authorities to authorize an independent international organization such as the United Nations Committee on the Rights of the Child to visit the Panchen Lama.

63. Tanak Jigme Sangpo, a teacher serving a 28-year prison sentence in Drapchi, in the Lassa area, was another Tibetan political prisoner who deserved the attention of the Commission. He had been deprived of freedom since 1962 when he was arrested because of his political activities. On 6 December 1991 a Swiss delegation visiting Drapchi had heard Jigme Sangpo shouting political slogans from his cell, behaviour which had earned him beatings and another nine years added to his sentence. If he survived, he would be 85 upon emerging from prison in 2011.

64. On 9 May 2000 the Committee against Torture had said it was concerned about persistent allegations of serious cases of torture inflicted on Tibetans and other members of national minorities. The Committee had urged China to make a prompt and impartial inquiry into those allegations. In that connection the Worldview International Foundation asked the Chinese authorities to open an inquiry immediately into the death of five Tibetan nuns in detention in Drapchi in 1998. At least ten people had died in detention following the Chinese authorities' brutal repression of prisoners in Drapchi who had organized a protest movement. A recent report of the Tibet Information Network in London described in detail the circumstances in which the five imprisoned nuns had met their death. The report described in particular how one of them had been savagely tortured.

65. The Worldview International Foundation requested the Commission to adopt a resolution on China demanding the release of all political prisoners detained by the Chinese authorities.

66. Ms. DEHOY (Anti-Slavery International) drew the attention of the Commission to the growing restrictions on religious freedom in Asia.

67. She said she was particularly concerned about the situation in Laos. Recent events attested that Christians who professed their faith in churches not approved by the State had fallen victim to persecutions. Every imaginable form of intimidation was used to compel them to renounce their faith. According to the Group for the Defence of Human Rights in Laos, although members of the clergy and their congregations who had been imprisoned in 1999 had subsequently been released in 2000, new arrests had taken place since then and 25 Christians were now detained in Laos, accused of being enemies of the State and forced to sign documents in which they renounced their faith. Some were being held in detention for illegal religious activities or on other pretexts, very often in terrible conditions. Besides, Christian families had been moved to non-Christian villages.

68. Since 1999 the authorities had closed about fifty churches. One church in the province of Savannakhet had been converted into a government office building. Members of the clergy who had asked for compensation had been arrested and were thought to be in detention still. Three other people had been imprisoned for having continued to gather in their homes after the closure of their church. In December 2000 only eight churches of Savannakhet province had been authorized to celebrate Christmas. Some persons who had attended the Christmas services had been arrested and forced to abjure their faith in writing.

69. In Viet Nam also, only religious organizations recognized by the State were authorized. Independent religious activities were forbidden and the faithful persecuted and imprisoned. In February, Christians who had demonstrated in the central high plateau region had been victims of a brutal repression. The situation of the venerable Thich Huyen Quang, patriarch of the Unified Buddhist Church of Viet Nam, under house arrest since 1982, was also a source of concern.

70. In Myanmar, the Government was continuing to monitor the activities of the followers of all religions, including Buddhists because of their past history as political activists. That did not hinder the same Government from imposing Buddhism by force on members of ethnic minorities. In the State of Chin, Christians were victims of harassment. Some of them had taken refuge in Guam in 2000 in the hope of going to the United States and escaping religious persecution. The Rohingya Muslims in the State of Arakan had been deprived of their citizenship and in many cases had seen their lands confiscated for the benefit of Buddhist settlers, as part of an official programme. In addition they had been compelled to engage in forced labour for the building of the settlements in question, as well as pagodas. The Government was stirring up the violence already present in society against Muslims, with the result that clashes between Buddhists and Muslims occurred in February 2001 in Sittwe, during which at least ten people died.

71. In Afghanistan the Taliban had just scandalized the international community by demolishing the 2000 year-old statues of Buddha in Bamiyan and by destroying non-Islamic objects of devotion in the museum of Kabbul. In addition, the Taliban were violating human rights by imposing their aggressive interpretation of the Shariah.

72. Anti-Slavery International urged the Commission and the Special Rapporteur on religious Intolerance to raise the question of religious freedom with the Governments concerned so that violations of that freedom would cease.

73. Mr. KIM (World Peace Council) said that he would address himself to the issue of the right to compensation for victims of serious human rights violations.

74. In September 1999 the Associated Press had begun a series of articles on a massacre perpetrated in 1950 in the South Korean village of No Gu Ri, where hundreds of villagers had been machine-gunned by the armed forces of the United States of America during the Korean war. About 400 civilians, most of them women, children and old people, were said to have been killed during the episode, which was very similar to that of My Lai in Viet Nam. Other massacres were also attested, including the execution of at least 100,000 South Korean prisoners, carried out with the complicity of the American military who had been commanding the Korean forces. Former President Clinton had acknowledged the facts about the No Gu Ri massacre but had merely expressed his regret. The massacres approved to have been aimed at the movement opposing the foreign occupation and fighting for the unification of the Korean people, a movement which had been born during the Japanese occupation.

75. Recently democracy seemed to have gained ground in South Korea, a fact which, in conjunction with peace measures and the détente between North and South, had encouraged people to give evidence.

The Korean Truth Commission had been created to conduct a systematic inquiry into the massacres of civilians carried out by American soldiers. It had identified 60 places where such massacres had taken place. As a part of the inquiries, international delegations had travelled to the sites in question and had heard the testimony of those who at the time had been victims of machine-gunning, who had survived but had seen their relatives die.

76. The Government of the Democratic People's Republic of Korea had presented the United Nations with detailed documentation on similar massacres perpetrated by the United States army in the northern part of the country. The bloodiest event had been in the district of Sinchon in the province of Hwanghae, where more than 30,000 civilians had been killed in three months. The forces commanded by the United States had pursued a scorched earth policy, bombarding the land with napalm and razing everything to the ground. Hundreds of thousands of civilians had been killed in the course of those events.

77. The World Peace Council thought it essential that appropriate measures be taken to ensure that those human rights violations were recognized and that the families of the victims received compensation. That was why, although the events dated back fifty years, he was urging the Commission—in order to avoid a repetition of such horrors—to shed as much light on the facts as possible and seek compensation for the victims.

78. Ms. MIR (Liberation) drew the Commission's attention to two issues: torture and detention on the one hand and disappearances and summary executions on the other.

79. In Peru those who dared to protest against the political system of the country were systematically tortured. In spite of law No. 26926, which condemned torture as a crime, many of those who had perpetrated it remained unpunished. Liberation was also very worried about the cases of torture in the Punjab (India) and the Government's refusal to compensate the victims or to investigate the acts perpetrated by the police forces in that region. The culture of impunity prevailing among the security forces was aggravated by the rise of the number of illegal detentions.

80. The security forces also acted with complete impunity in Sudan, where violations of human rights were committed every day. Many of them were closely linked to the continuing conflict there, which led to displacements of populations, massacres of civilians, looting, kidnapping and rape. In 2000 the police had continued their policy of repression in dealing with opposition leaders and political activists. During the first three months of 2001 they had arrested a large number of people in various cities of the country.

81. Political activists continued to be harassed in Malaysia, where some NGOs had been refused permission for foreign travel of their staff in defence of their cause. The number of summary executions of innocent people was steadily increasing in the State of Jammu and Kashmir in India. In Bangladesh, the Chittagong Hill Tracts Peace Accord 1997 had still not been applied; human rights violations were continuing and cases of torture and illegal detention of innocent men, women and children were continuing to increase.

82. Liberation was convinced that the Commission on Human Rights had a key role to play in the defence and promotion of human rights, but it was high time to move on from fine words to practical measures in their defence.

83. Mr. ANVAR (World Federation of Democratic Youth) asked the Commission to put pressure on countries that were delaying the establishment of democratic institutions—in particular an independent judiciary—and to advise Governments to be honest in describing the internal situation of their countries instead of making deceitful statements.

84. When the Commonwealth had decided to exclude Pakistan from its councils, it had indicated that reintegration would depend on progress made in re-establishing democracy. However, one was bound to accept the fact that, so far, exactly the opposite had happened. The army had imposed unprecedented restrictions on parties favourable to democracy and tried to muzzle ordinary citizens. On the other hand, several religious parties and so-called political activists who enjoyed the support of Pakistani public bodies, such as the intelligence services, were not just authorized but even helped to infringe those restrictions with complete impunity.

85. Democratic politicians had been arbitrarily detained and sometimes held in secret. For about a year and a half the army and the Pakistani intelligence services had, from the Punjab, been conducting a devastating military operation in Baluchistan, where they were massacring innocent civilians of Baluch and Pashtu origin.

86. The Pakistani authorities preferred to pursue a personal vendetta policy rather than reform the country. All the leaders abused power and resorted to corruption to impose their authority. The country had always been governed by feudal and military oligarchies that did not have the will to reform the country and make it democratic. They were indifferent to the political, social and economic collapse threatening Pakistan.

87. The future of the country lay in democracy, sound management of public affairs and public accountability. To attain those goals, power would have to be entrusted to progressive groups with a middle class background rather than to extremists and oligarchies who were always ready to preach fanaticism in order to retain their grip on power. All Pakistanis, women and men, whatever their ethnic origin or religion, should be able to participate in the running of public affairs. The provinces of the Federation of Pakistan should enjoy complete independence and no longer be victims of the hegemony of the Punjab. The Federation could retain a certain number of attributions (defence, foreign affairs and treasury), the others being entrusted to the provincial assemblies which in turn would leave an important role to the local communities. The distribution of power would make it possible to create an egalitarian society in which the residents of each province could decide their own destiny freely without being politically oppressed by the majority group under the yoke of the army, the intelligence services and the civilian and military bureaucracy.

88. On 17 September 2000, in London, the leaders of the Sind and Baluchistan provinces had presented a resolution that had been unanimously adopted. It called for repeal of the 1973 Constitution and its replacement by a new Constitution drawn up in accordance with the 1940 resolution concerning Pakistan that provided for an independent status for the provinces.

89. Pakistan was in no sense like a child who needed authoritarian and totalitarian parents, contrary to widespread opinion in the West which had been upheld for a long time by incompetent dictators.

90. Mr. SHAHIN (Himalayan Research and Cultural Foundation) said that the Commission was tackling the issue of religious intolerance only a short time after the Taliban's destruction of the 2000-year-old Buddhist statues in Bamiyan. That act was all the more pernicious for having been committed in the name of Islam, thereby helping to discredit not only Islam itself but the very idea of religion. It was an offence to believers throughout the world. The Taliban had been trained in thousands of Koranic schools spread throughout the various regions of Pakistan. About 10 to 15 per cent of those schools taught the principles of Jihad, or holy war. The fighters of the Jihad, gathered together in terrorist organizations, had killed thousands of innocent Muslims opposed to their ideology in the Vale of Kashmir and had conducted "ethnic cleansing" campaigns against religious minorities such as the Hindus and the Sikhs of Kashmir.

91. In paragraph 110 of his report (E/CN.4/2000/65), the Special Rapporteur on Religious Intolerance, Mr. Amor, had acknowledged the danger represented by extremist groups claiming to act as Muslims, but had also considered it important to differentiate between an extremist minority who used Islam for political goals and the majority of Muslims who practised Islam in accordance with the principles of tolerance and non-discrimination. All religions urged believers to develop a culture of peace, and they played an important role in the promotion of civilization. Unfortunately, among their ranks there was always a minority of individuals who could be called barbarians. The question then arose whether believers throughout the world were prepared to accept the idea that those minorities should jeopardize civilization.

92. The Himalayan Research and Cultural Foundation shared the opinion of the Special Rapporteur, who believed that the dialogue between religions played a key role in preventing misunderstandings, conflicts and violations of the freedoms of religion and belief. Considering the growing fanaticism in certain religious communities, one should encourage that dialogue.

93. Many speakers had referred to a growing Islamophobia in the world. Yet, if the Muslims themselves could not prevent extremists like Ossama Bin Laden from spreading dangerous theories and inciting Muslims to jihad, they could hardly ask others not to fear Islam. It was up to the Muslims, and in particular the Islamic specialists, to make sure that their religion remained a blessing for humanity and was not transformed into an instrument of terror.

94. Mr. HASAN (International Peace Institute) said that, in spite of the Bangladeshi Government's wish to improve the human rights situation in the country by adopting new laws and acceding to international conventions, progress was hardly noticeable because no practical measures had been taken.

95. The number of extrajudicial executions and acts of torture continued to increase. In 2000, around 800 women had been tortured to death according to the NGO Bangladesh Legal Aid and Services Trust. The number of victims of bomb attacks was also increasing every year. Violence, especially on the part of the police, did not spare children.

96. The violence and abuses were due to a number of factors. First of all, [illegible]y and the political milieu accepted the violations. Elections were not always held on the basis of universal and equal suffrage but often involved dubious financing and the use of force. The forces of law and order had not developed any sensitivity to human rights. And finally, members of the Government enjoyed partial impunity.

97. The security of ordinary citizens was constantly threatened, as was their freedom of movement and their right to hold property. The mafia poisoned the political milieu and the world of business. Although the present Government was more favourable towards minorities than previous ones, the minorities still continued to be openly threatened. Very often it was powerful fundamentalist groups rather than the Government who refused to respect property rights and freedom of thought. Those groups, made up of religious fanatics and former collaborators of the Pakistani military factions, cultivated a philosophy of hatred and segregation based on religion.

Statements in exercise of the right of reply

98. Mr. RODRIGUEZ (Colombia) did not accept the allegations of several non-governmental organizations who were deliberately ignoring the many officials, judges, soldiers and police who had sacrificed their lives in the service of democratic institutions. The Colombian Government condemned those who questioned its determination to defend human rights and to combat the armed groups who were the main people to blame for the violations. In particular, he did not understand the appeals addressed to

him by the European Union, as he had shown himself perfectly capable of cooperating with the mechanisms of the United Nations responsible for the protection of human rights.

99. Mr. SITHILEUXAY (Observer from the Lao People's Democratic Republic) categorically denied the allegations made by the representative of the United States and the spokesperson of a non-governmental organization concerning so-called infringements of the freedom of religion of Protestants in the Lao People's Democratic Republic. Freedom of religion was guaranteed by the Constitution and no Protestants had been arrested because of their religious beliefs. Those who had been arrested were persons who had been taking part in illegal activities, organizing secret meetings and trying to help people to go abroad. The Government had had to put a stop to that trafficking in human beings and other such activities so as to maintain the stability of the country. Although individuals could freely exercise their rights and enjoy their basic freedoms, they nonetheless remained subjects of a State which meant that their activities could not be contrary to the laws of that State.

100. Mr. NUSHIRWAN (Malaysia), referring to the statement of a non-governmental organization, stressed that in all countries of the world freedom of association had its limits. As far as freedom of the press was concerned, opposition newspapers were published and distributed without hindrance, just as were foreign newspapers. The newspapers belonged to private enterprises, in no case to the Government. It was up to the media to display a sense of responsibility and avoid sensitive subjects that might compromise the stability and security of the country.

101. Freedom of assembly and of expression were guaranteed by the Malaysian Government. Individuals could express themselves freely as long as they did not take up sensitive topics, and anyone could organize a meeting after having obtained authorization from the police. Those authorizations were issued on the basis of objective criteria.

The meeting rose at 1.10 p.m.